

DATE OF DETERMINATION	Tuesday, 23 July 2019
PANEL MEMBERS	Paul Mitchell (Acting Chair), Mary-Lynne Taylor, Stuart McDonald and Julie Walsh
APOLOGIES	Paul Stein and Paul Moulds
DECLARATIONS OF INTEREST	Nil

Public meeting held at Cumberland Council on 23 July 2019, opened at 2.00pm and closed at 3.30pm.

MATTER DETERMINED

2018CCI009 - Cumberland – DA2018/332 AT 106-128 Woodpark Road, Smithfield (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 approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

REASONS FOR THE DECISION

1. The proposed development is a permissible use in the B5 Business Development zone and is consistent with the zone objectives.
2. The proposed development complies with all applicable development standards and most guidelines, variations from the latter are justified in this instance.
3. The site of the proposed development is suitable for the intended use – it is appropriately zoned and land that is largely free of environmental constraints and well served by road access.
4. The Panel has carefully considered the issues raised by the two objectors. A number of the issues raised are not relevant to this stage 2 DA as they were considered in the earlier determination of stage 1. The Panel considers that the remaining issues have been addressed either by the design of the proposal or by applicable conditions. Any remaining issues, including unavoidable tree removal are not considered to be of sufficient magnitude to warrant refusal of the application.

The decision was unanimous.

CONDITIONS

The development application was approved subject to the conditions presented at the meeting with the following amendments –

Condition 3 – reference to landscape plans –

- Landscape Plans prepared by John Chetham & Associates, project number 106WP/DA/LP/I as modified to provide additional replacement tree planting to the satisfaction of Council's Executive Manager Building and Development:

Drawing No.	Title	Revision	Date
S2/00	Landscape Master Plan	I	4 April 2019
S2/01	Landscape Plan 01	F	4 April 2019
S2/02	Landscape Plan 02	F	4 April 2019
S2/03	Landscape Plan 03	F	4 April 2019
S2/04	Landscape Plan 04	F	4 April 2019
S2/05	Landscape Plan 05	F	4 April 2019
S2/06	Landscape Plan 06	F	4 April 2019
S2/07	Landscape Sections & Details 01	F	4 April 2019
106WR/CRC/LP/01	Landscape & Play Area Plan	F	29 May 2019
106WR/CRC/LP/02	Landscape section & play item sample images	F	29 May 2019

Condition 16 to read as follows –

Tree Replacement

Of the replacement trees to be planted throughout the site, a minimum of twenty (20) of these trees must be *Corymbia maculata* or other indigenous tree species selected from the following list:

Angophora floribunda

Angophora bakeri

Eucalyptus crebra

Eucalyptus eugenioides

Eucalyptus moluccana

Eucalyptus tereticornis

Eucalyptus amplifolia

Eucalyptus fibrosa

Eucalyptus floboidea

Eucalyptus longifolia

Eucalyptus paniculata

Eucalyptus punctata

Syncarpia glomulifera

These particular twenty (20) replacement trees must be of minimum 75 L container stock.

Amendments to be shown on the final approved landscape plans to the satisfaction of Council's Executive Manager Development and Building.

**Condition 26 to read as follows -
Traffic**

Prior to the issue of the relevant construction certificate, detailed designs for the Traffic Control Signal (TCS) plans and associated signs and line marking at the Cumberland Highway / new access way and at the intersection of Cumberland Highway / Woodpark Road (upgrade of the existing), shall be prepared by a qualified traffic practitioner / consultant and submitted to Council and NSW Roads and Maritime Services (RMS) for consideration.

Note: the detailed design of the TCS, signs and line marking plans may require approval from Council's Traffic Committee. The time line for traffic committee approval is approximately 3 months.

Condition 27 to read as follows –

Any changes to parking restrictions on Woodpark Road, as required to accommodate the swept path of vehicles exiting the site, shall be subject to the approval of the Local Traffic Committee, unless approval has already been obtained under Development Consent 2017/7/1.

**Condition 45 to read as follows –
Remediation/Validation Report**

Prior to the issuing of the Construction Certificate a remediation report is to be prepared. Following this, a validation report prepared by a NSW EPA accredited site auditor is to be prepared to confirm that the site has been remediated to the appropriate standard, and that the site is suitable for the proposed uses. Copies of any remediation/validation report are required to be submitted to the satisfaction of Council's Manager Development Assessment prior to the issue of the Construction Certificate.

Condition 53 to read as follows –

A revised acoustic report is to be prepared, to assess the impact of the alterations to the design of the child care centre, as required to comply with condition 15h. The report is to include any recommendations necessary to ensure that the indoor noise levels for the child care centre will comply with the AAAC guidelines for child care centre acoustic assessment.

New Condition 200 to read as follows -

Vehicles entering or exiting the site from Woodpark Road shall be restricted to a maximum of 19 m in length.

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 Panel notes that issues of concern included:

- Increase in noise impacts to residents;

- Acoustic report did not assess the nearest residential receiver;
- Noise assessment;
- Inadequacy of the existing acoustic wall along the Cumberland Highway;
- Deterioration of air quality;
- Removal of 98 existing mature trees;
- Incorrect claim in acoustic report;
- Footpath along either the Woodpark Road or Cumberland Highway frontages.

The Panel considers that concerns raised by the public have been adequately addressed in the original assessment report and that no new issues requiring further assessment were raised during the public determination meeting. The Panel is satisfied that the issues raised are suitably addressed via conditions which are imposed on the consent.

PANEL MEMBERS	
 Paul Mitchell OAM (Acting Chair)	 Stuart McDonald
 Julie Walsh	 Mary-Lynne Taylor

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018CCI009 - Cumberland – DA2018/332
2	PROPOSED DEVELOPMENT	Stage 2 construction of a two storey building comprising various sized specialised retail premises, medical centre, and child care centre, construction of a single storey building comprising 1 x specialised retail premises and 4 x food & drink premises; construction of 3 separate single storey buildings for use as fast food outlets with 24 hour operation; signage, 594 car parking spaces, 113 bicycle parking spaces, tree removal, landscaping and stormwater works.
3	STREET ADDRESS	106-128 Woodpark Road, Smithfield
4	APPLICANT OWNER	Snowside Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	CIV above \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	• Environmental planning instruments: ○ State Environmental Planning Policy (State and Regional Development) 2011 ○ State Environmental Planning Policy No 55 – Remediation of Land ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 ○ State Environmental Planning Policy No. 64 – Advertising and Signage ○ Greater Metropolitan Regional Plan No. 2 – Georges River Catchment ○ Holroyd Local Environmental Plan 2013 • Draft environmental planning instruments: Nil • Development control plans: ○ Holroyd Development Control Plan 2013 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> • Coastal zone management plan: Nil • 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	• Council assessment report – July 2019 • Written submissions during public exhibition: 2 • Verbal submissions at the public meeting: ○ Support – Nil ○ Object – Nil

		○ On behalf of the applicant – Tony Maurici and Tim Blythe ○ On behalf of Council – Sarah Pritchard and Sohail Faridy
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	● Site inspection – 23 July 2019 ● Final briefing meeting to discuss council’s recommendation, 23 July 2019, 1.30pm. Attendees: ○ <u>Panel members</u>: Paul Mitchell (Acting Chair), Mary-Lynne Taylor, Stuart McDonald and Julie Walsh ○ <u>Council assessment staff</u>: Sarah Pritchard and Sohail Faridy
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report