

DETERMINATION AND STATEMENT OF REASONS
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	Wednesday, 24 April 2019
PANEL MEMBERS	Jason Perica (Chair), Michael Leavey, Kara Krason
APOLOGIES	Cr John MacKenzie, Cr. Jason Dunn and Cr Matthew Byrne
DECLARATIONS OF INTEREST	None

Public meeting held at Travelodge Newcastle – 12 Steel Street, Newcastle on 24 April 2019, opened at 2:15pm and closed at 4pm.

MATTER DETERMINED

2018HCC041 – Newcastle City Council – DA2018/01197 at 10 Dangar Street, Wickham (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*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel generally agreed with the environmental assessment outlined in the council assessment report(s).

The Panel was supportive of the mixed use development for the site, which was suited to the site.

The design and amenity of the building was positive and had appropriate regard to the site's context, and will be a significant improvement for the area. The proposal had appropriate regard to the design principles within SEPP 65 (Design Quality for Residential Apartment Development) and the associated Apartment Design Guide, and the proposal was supported by the Urban Design Consultative Group, while the proposal itself had been modified and improved over time following feedback from this group.

The Panel had regard to the applicants' Clause 4.6 variation request regarding the maximum height limit within Clause 4.3 of the Newcastle Local Environmental Plan 2012 ('the LEP'). The Panel formed the view the proposal applicant's written request satisfactorily addressed the required matters within Clause 4.6(3) of the LEP. The Panel considered the proposal was consistent with the objectives of the height development standard and the objectives of the zone, and thereby granting consent in the public interest. The proposed height was both appropriate for the location and setting of the site, while the proposal resulted in a well-considered and contextually appropriate urban built form. This building bulk and height was appropriately located on an "island" site, which also limited interfaces and impacts on adjoining land.

The Panel also noted:

- The site is subject to flooding, which resulted in some limitations in terms of the parking and ground level interface;

- The above-ground parking provided had been reasonably limited by the provision of basement parking, and was appropriately located, with its treatment reasonably mitigated by the proposed design and conditions of consent;
- The proposal complied with the FSR standard;
- Appropriate activation occurred at ground level, with some limitations from parking and flood planning, and improvements through conditions of consent.
- The proposal appropriately addressed key LEP and DCP provisions. Where there were some departures from DCP provisions, these were relatively minor in the context of the overall development, and acceptable in this instance.
- Vehicular and pedestrian access was appropriately located.
- There would be no significant amenity impacts on surrounding land

CONDITIONS

The development application was approved subject to the recommended conditions in the Council Assessment Report to the Panel meeting of 24 April 2019, subject to amending the following conditions:

- Condition 4 be amended to specify:
 - (a) The value of the artwork to be 1% of the CIV;
 - (b) The second sentence be amended to state *"The final details of all artworks within the site and associated costings are to be submitted to the Council's Public Art Reference Group for written approval prior to the issue of a Construction Certificate, the written approval be obtained prior to commencement of above-ground works/ground level slab and the approved artwork(s) be installed prior to the issue of the first Occupation Certificate."*
- A new Condition 4A to state:

4A. In addition to the artwork required in the Condition 4 above, a mural or similar installation shall be installed at the outer faces of ground floor of the southern and western walls to the carpark (for a length of at least 50% of each wall). The details of these installations shall be provided to the same Reference Group referred to in Condition 4, with the timing for submission, approval and installation also as outlined in Condition 4. Reason: To mitigate the visual impact of the blank walls, while noting some non-compliance with DCP setbacks and given the important interface with the street and transport interchange."
- Condition 7 be amended to:
 - (a) Change the "minimum of 197 car spaces" to a "maximum of 197 car spaces";
 - (b) Provide a breakdown of the parking allocation within the 197 car spaces consistent with the advice in the TTPP letter 18/1/19;
 - (c) Include a requirement for a traffic and parking consultant to provide written verification that the disabled parking spaces meets the requirements associated with any required adaptable housing and to meet the BCA for commercial/retail uses;
- Condition 22 be amended to:
 - (a) Add a new part xi under (a) to state:




"xi. Review of the shopfront alignment to the east, north and south at ground level after consideration of the desirability of providing some outdoor breakout or outdoor dining areas associated with the retail uses".
 - (b) Also require approval by the Manager of Regulatory Services at Council.
- Condition 38 be amended to change the last words from "to the first floor as a minimum" to "to the top of the podium at Level 3".
- A new Condition 38 be added to state:

"38. The western ground floor window to the retail use fronting Charles Street shall be enlarged to extend to the ground floor level (and may also be enlarged laterally, but not reduced laterally)."
- Delete Condition 44.
- Include a new condition prior to the issue of an Occupation Certificate requiring the installation of artwork and mural(s) required by Conditions 4 and 4A

- Condition 85 be amended to add a final sentence to state: *“The acoustic treatment shall also ensure that noise emissions from all plant meets all regulatory requirements”*.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition (and two late submissions by Ms Henry and Mr J Phelan circulated to the Panel and a further submission from “Glow” during the meeting) and heard from all those wishing to address the Panel. The Panel noted the issues of concern and generally agreed with the consideration of issues raised within the Council staff report. A number of additional conditions were imposed, largely aimed at addressing the interface with the surrounding public domain, which was also a key issue for submitters to the Panel. Other key issues were DCP non-compliance, including those applying to the Wickham area were considered and considered acceptable for the broad reasons outlined above.

PANEL MEMBERS	
 <p>Jason Perica (Chair)</p>	 <p>Kara Krason</p>
 <p>Michael Leavey</p>	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018HCC041 – Newcastle City Council – DA2018/01197
2	PROPOSED DEVELOPMENT	Demolition of buildings, erection of 14-storey mixed use development including residential units, retail and commercial
3	STREET ADDRESS	10 Dangar Street, Wickham
4	APPLICANT/OWNER	Applicant: Dangar Street Wickham Pty Ltd Landowners: Shoreclan Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 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 (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy No.55 – Remediation of Land State Environmental Planning Policy No.65 – Design Quality of Residential Flat Development State Environmental Planning Policy (Coastal Management) 2018 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 Newcastle Local Environmental Plan 2012 Draft environmental planning instruments: Draft Remediation and Environment SEPPs Development control plans: <ul style="list-style-type: none"> 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: 24 April 2019 Written submissions during public exhibition: 1 (Plus 3 late submissions) Verbal submissions at the public meeting: <ul style="list-style-type: none"> In objection – Lynette Kilby and John Phelan Council assessment officer – David Paine On behalf of the applicant – Peter Crystal, Paul Buljevic and David Desson
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Site inspection and briefing: Wednesday, 24 April 2019 Final briefing to discuss council's recommendation, Wednesday, 24 April 2019, 12.45pm. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Jason Perica (Chair), Michael Leavey, Kara Krason. <u>Council assessment staff</u>: David Paine,

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report