

## DETERMINATION AND STATEMENT OF REASONS

### HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	13 August 2024
<b>DATE OF PANEL DECISION</b>	13 August 2024
<b>DATE OF PANEL BRIEFING</b>	6 August 2024
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Tony McNamara, Robert Bisley, David Crofts
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Roberta Ryan declared a conflict of interest due to recent work she undertook for Woolworths.

Papers circulated electronically on 23 July 2024.

#### MATTER DETERMINED

PPSHCC-185 – Cessnock – DA/2023/64/1 at 178 Lang Street, Kurri Kurri 2327 – Woolworths Kurri Kurri (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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel has had the benefit of several briefings from Council and the applicant. The site is an important site within the Kurri Kurri Commercial Centre.

The development involves the closure and sale of an existing laneway to form a consolidated site, and the dedication of land and construction of a new laneway in an alternate location.

These elements of the application have been the subject of a Voluntary Planning Agreement which has been exhibited, considered and executed by Council. The Panel has considered the VPA in the assessment of the application and the staging outlined in the VPA. A condition ensuring that the laneway is closed prior to the release of any construction certificate has been included.

The proposal will result in the loss of two (2) murals; however, the plans show the location of one new mural with a further location to be determined. Conditions have been included to ensure the replacement of the two (2) murals at the applicant's expense including ongoing maintenance and liaison with *Towns with Heart*.

The proposal does not strictly meet Council car parking requirements. Notwithstanding this, the Panel is satisfied that there is sufficient car parking to meet the needs of the development and has had regard to Council assessment, the Traffic Impact Assessment, mix of uses and the context of the site as part of a larger commercial centre. The application has been amended to satisfactorily address initial urban design issues.

The proposal will result in an improvement to this part of the commercial centre, providing economic and employment benefits to the broader community.

The Panel is satisfied that the proposal is suitable for the site, responds to its context and that any impacts arising from the development can be appropriately managed and mitigated.

## Development application

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 determined to approve the application for the reasons outlined in the council assessment report at attachment O.

## CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments.

1. Addition of Condition 8A:

**“PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR COMMERCIAL CENTRE 8A) Closure of existing public laneway (new condition)**

The existing public laneway as described in the Voluntary Planning Agreement and shown on the site acquisition plan (DA03, Rev B) is to be legally closed under the *Roads Act 1993*.”

2. Condition 37 being amended to read as follows:

**“37) Murals (amended condition)**

Two replacement murals at the applicant’s expense must be provided. Plans detailing the location and design of the replacement murals, and written evidence of approval from *Towns With Heart* for the location and design shall be submitted to Council. The mural designs must not contain any advertising. The surface of the proposed location of the murals must be suitable finish such as concrete blockwork or a rendered finish to accommodate the mural.”

3. Addition of Condition 99:

**“ONGOING USE**

**99) Approved murals (new condition)**

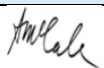
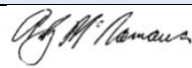


The two (2) murals must not be modified without approval by *Towns With Heart*, and the approved murals must be maintained in a presentable and satisfactory condition in perpetuity, at the cost of the owner of the development.”

## 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:

- Traffic and parking
- Social impacts
- Design Considerations
- Location, timing of funding of Public Art / Murals, nature of brickwork (rendered or flush joints)

These matters have been addressed in the report and are the subject of additional conditions.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Tony McNamara
 David Crofts	 Robert Bisley

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-185 – Cessnock – DA/2023/64/1
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a new shopping centre (incorporating Woolworths) and associated works
3	STREET ADDRESS	178 Lang Street, Kurri Kurri 2327
4	APPLICANT/OWNER	Higgins Planning Pty Ltd / Mr G and Mrs M Vrachliotis and Voitrant No 124 Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>○ State Environmental Planning Policy (Planning Systems) 2021</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>○ State Environmental Planning Policy (Industry and Employment) 2021</li> <li>○ Cessnock Local Environmental Plan 2011</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Cessnock Development Control Plan 2010</li> </ul> </li> <li>• Planning agreements: Executed 24 June 2024 between the developer, landowners and Cessnock City Council</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Section 61 (demolition), Section 66A (Council related DAs)</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 18 July 2024</li> <li>• Written submissions during public exhibition: 4</li> <li>• Total number of unique submissions received by way of objection: 1</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Preliminary Briefing: 4 April 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan</li> <li>○ <u>Applicant representatives</u>: Marian Higgins, Gerry Incollingo, Anthony Iannuzzi, James Phillips, Weir Phillips, Michael Christian, Ben Pomroy, Tim Rogers</li> <li>○ <u>Council assessment staff</u>: Sue Page, Janine Maher</li> <li>○ <u>Department</u>: Leanne Harris, Lisa Foley</li> </ul> </li> <li>• Assessment Briefing: 6 June 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Roberta Ryan (Acting Chair), Tony McNamara</li> <li>○ <u>Council assessment staff</u>: Sue Page, Janine Maher</li> <li>○ <u>Department</u>: Leanne Harris, Lisa Foley</li> </ul> </li> <li>• Assessment Briefing: 20 September 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Applicant representatives</u>: Marian Higgins, Gerry Incollingo, Anthony Iannuzzi, Tim Rogers</li> <li>○ <u>Council assessment staff</u>: Sue Page, Marc Hope, Ian Rush</li> <li>○ <u>Department</u>: Leanne Harris, Lisa Foley</li> </ul> <ul style="list-style-type: none"> <li>● Site inspection <ul style="list-style-type: none"> <li>○ Alison McCabe (Chair): 28 October 2023</li> <li>○ Tony McNamara: 17 July 2023</li> <li>○ David Crofts: 27 November 2023</li> </ul> </li> <li>● Council Briefing: 5 December 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Robert Bisley, David Crofts</li> <li>○ <u>Council assessment staff</u>: Janine Maher, Karen Forsyth</li> <li>○ <u>Department</u>: Leanne Harris, Holly McCann</li> </ul> </li> <li>● Final briefing to discuss council's recommendation: 6 August 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Robert Bisley, David Crofts</li> <li>○ <u>Council assessment staff</u>: Sue Page, Jules Bosco</li> <li>○ <u>Applicant representatives</u>: Marian Higgins, Gerry Incollingo, Anthony Iannuzzi, Michael Christian, Ben Pomroy and Tim Rodgers</li> <li>○ <u>Submitter</u>: Toby Thomas</li> <li>○ <u>Department</u>: Leanne Harris</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report