

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	5 February 2024
DATE OF PANEL DECISION	1 February 2024
DATE OF PANEL MEETING	30 January 2024
PANEL MEMBERS	Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Peta Winney-Baartz, John Mackenzie
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 30 January 2024, opened at 2.00pm and closed at 2.35pm.
Papers circulated electronically on 1 February 2024.

MATTER DETERMINED

PPSHCC-251– Newcastle – DA2023/00886 at 1 Brunner Road, Broadmeadow 2292 – Mixed use – pub, tourist and visitor accommodation, commercial premises, 16 hotel rooms and forty-eight (48) residential dwellings including demolition of existing structures (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 has had the benefit of an initial briefing on this matter from both Council and the applicant.

The Panel understands that the site is located in the Broadmeadow Regionally Significant Growth Area, which is currently the subject of a strategic planning program to plan for the future of Broadmeadow. It is understood that a Place Strategy outlining a 30 year vision for the area is being prepared and is expected to be exhibited in 2024 as part of the broader policy framework being developed. This work has not been completed.

The proposed development does not respond to its current context and is out of scale with surrounding development. The Panel is not satisfied that the clause 4.6 written requests have adequately addressed the matters required to be address under clause 4.6 (3) of the NLEP 2012.

The Panel is not satisfied that there are sufficient environmental planning grounds to justify the variation to the height and Floor space ratio (FSR) development standard.

Significant variations to an adopted policy framework on a piecemeal basis undermines both existing controls and predetermines a structured strategic planning exercise which seeks to plan for change. It prevents proper community involvement.

The proposal is premature given that the strategic work is underway.

The proposal also lacks merit given the proposed scale, layout of building, inadequate carparking and amenity impacts.

The application warrants refusal.

Development application

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.

REASONS FOR THE DECISION






The Panel determined to refuse the application for the reasons attached at Schedule 2.

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:

- height exceedance, overdevelopment and out of character
- Traffic and parking impacts
- Issues with vehicular and pedestrian access
- Acoustic and amenity impacts
- Privacy and overshadowing
- Waste collection arrangements
- Lack of landscaping and green spaces
- Impacts during construction
- Lack of suitable amenities in the design.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Tony McNamara
 Roberta Ryan	 Peta Winney-Baartz
 John Mackenzie	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-251– Newcastle – DA2023/00886
2	PROPOSED DEVELOPMENT	Mixed use – pub, tourist and visitor accommodation, commercial premises, 16 hotel rooms and forty-eight (48) residential dwellings including demolition of existing structures
3	STREET ADDRESS	1 Brunker Road, Broadmeadow, 2292
4	APPLICANT/OWNER	George Thomas Hotels (Premier) Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Capital Investment Value over \$30M
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Newcastle Local Environmental Plan (NLEP) 2012; Draft environmental planning instruments: Draft Remediation of Land State Environmental Planning Policy Development control plans: <ul style="list-style-type: none"> Newcastle Development Control Plan 2012 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Section 61, demolition of buildings 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	<ul style="list-style-type: none"> Council assessment report: 12 January 2024 Clause 4.6 variation request (clause 4.3 Height of Buildings) and Clause 4.6 variation request (clause 4.4 Floor Space Ratio) August 2023 Written submissions during public exhibition: 11 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Kay Gray Philip Coleman Tracey Smith Sandra Coleman
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Preliminary Briefing: 14 November 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Peta Winney-Baartz, John Mackenzie <u>Applicant</u>: Ed Blakely, Jag Bola <u>Council assessment staff</u>: Damian Jaeger, Amy Ryan <u>DPHI representatives</u>: Leanne Harris, Holly McCann

		<ul style="list-style-type: none">• Site Inspections:<ul style="list-style-type: none">• Alison McCabe: 26 November 2023• Roberta Ryan: 12 December 2023• Final briefing to discuss council’s recommendation: 30 January 2024<ul style="list-style-type: none">• <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Peta Winney-Baartz, John Mackenzie• <u>Council assessment staff</u>: Damian Jaeger• <u>DPHI representatives</u>: Leanne Harris, Holly McCann
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A

Reasons for Refusal

1. The proposal does not comply with the maximum allowable building height pursuant to cl.4.3 Newcastle Local Environmental Plan 2012. [Section 4.15(1)(a), (b) & (e)].
2. The proposal does not comply with the maximum floor space ratio pursuant to cl.4.4 Newcastle Local Environmental Plan 2012. [Section 4.15(1)(a), (b) & (e)].
3. The proposed development does not demonstrate that it satisfies the objectives of the height of building and floor space ratio (FSR) development standard.
4. The clause 4.6 written requests do not adequately address the provisions of clause 4.6 (3) (a) & (b) and do not demonstrate that compliance with the development standard is unreasonable or unnecessary or that there are sufficient environmental planning grounds to justify the contravention.
5. The proposed development is not in the public interest as it fails to promote the orderly and economic development of land, in that there is no adopted planning framework to support the form of development proposed.
6. The overshadowing impacts of the proposed development are not considered to be reasonable and result in unreasonable amenity impacts [Section 4.15 (b), (c) & (e)].
7. The proposal is inconsistent with the objectives of the MU1 Mixed Use zone objectives [Section 4.15(1)(a), (b) & (e)].
8. The proposal has not addressed the provisions of Clause 6.1 'Acid Sulfate Soils' under the Newcastle Local Environmental Plan 2012 which requires the submission of an Acid Sulfate Soils Management Plan ('ASSMP') [Section 4.15(1)(a), (b), (c) & (e)].
9. The proposed development is not acceptable in terms of urban design having regard to the terms *State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development* and the *Apartment Design Guidelines* [Section 4.15(1)(a), (b) & (e)]. The design of the building results in poor amenity for occupiers and the scale of the building is inconsistent with the character of the surrounding area.
10. The proposed development is inconsistent with Section 6.04 - Renewal Corridors of the Newcastle Development Control Plan 2012 [Section 4.15(a), (b) & (e)].
11. The proposed development is not acceptable in terms of flooding risk and the requirements of DCP 2012 Section 4.01 - 'Flood Management'. [Section 4.15 (b), (c) & (e)].
12. The proposed development is not acceptable in respect to traffic and parking impacts having regard to the requirements of DCP 2012 Section 7.03 - Traffic, Parking and Access Impacts [Section 4.15 (b), (c) & (e)] and results in unreasonable impacts.
13. The proposed development is not acceptable in respect to Crime Prevention Through Environmental Design and social impacts. The development is inconsistent with Section 4.04 – Safety & Security NDCP & Section 4.05 - Social Impacts [Section 4.15 (b), (c) & (e)].

14. The proposed development has not demonstrated that the acoustic impacts of the proposal are acceptable [Section 4.15 (b), (c) & (e)].
15. Insufficient details have been provided to demonstrate that the proposed landscaping/landscape design is acceptable [Section 4.15 (b), (c) & (e)].
16. The proposed development is not acceptable in respect to waste management having regard to the requirements of Section 7.08 - Waste Management of the Newcastle Development Control Plan 2012 [Section 4.15 (b), (c) & (e)].
17. The proposed development is contrary to the public interest with respect to the provisions of Newcastle Local Environmental Plan 2012 and Newcastle Development Control Plan 2012 regarding building height, density, acid sulphate soils, urban design elements, landscaping, waste management, traffic, parking, and adverse impacts on residential amenity within this area. [Section 4.15(1)(e)].