

<b>DATE OF DETERMINATION</b>	29 March 2021
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Sandra Hutton and Juliet Grant
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held by teleconference on 29 March 2021, opened at 12:35pm and closed at 1:20pm.

#### **MATTER DETERMINED**

PPSHCC-32 – Newcastle City Council – DA2019/00966 at 30 Vista Parade, Kotara – alterations and additions to education facility (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 had previously considered this matter at a public meeting on 2 December 2021. The matter had been recommended for refusal. The Panel resolved to defer the application for the applicant to provide additional information. The Panel's deferral was prescriptive in the matters that were required to be addressed.

The applicant has not provided the information outlined in the deferral notice to the degree requested. An addendum assessment report maintained a recommendation for refusal, primarily due to unreasonable impacts to the efficiency of the surrounding road network and an increased footprint and intensification of those impacts arising from the scale and intensity of the proposed increase in student numbers, given pre-existing constraints of the road environments.

The applicant identified that land ownership prevented possible road network solutions and that there were limited changes to the road network that would have a meaningful change to impact. It was expressed that the increase in parking and traffic impact to the surrounding road network and its efficiency and safety was not unreasonable in the context of the significant public benefit, that would arise from the proposal. The applicant maintains that the traffic management plan, in combination with use of the church carpark and a re-sited and increased on site queuing capacity and drop-off/pick up facility, is a reasonable mitigation of the likely impacts, particularly for the critical afternoon peak.

The Panel agrees there are public benefits with any school upgrade proposal, particularly in existing urban catchments subject to ongoing population growth and pressures. The Panel acknowledges that the nature of school traffic and parking impacts to road networks arises regularly for any substantive school upgrade proposal.

An understanding of the impacts of the existing school facility on the surrounding road network, broader neighbourhood and relevant mitigation measures are not properly documented, and in part rely on advanced implementation of the traffic management plan to inform current operations and mitigation. The impacts of the intensification of the use to the extent proposed and the mitigation measures cannot be properly quantified. The Panel was unable to clearly ascertain the extent to which the proposal and traffic management plan mitigates for pre-existing issues, as compared to impacts arising from the proposed scale of expansion, and how the constraints of the road network and impacts has informed the proposed increase in student numbers and capacity of the site.

The Panel is of the view that based on the current information, the site, and surrounding road network is not suitable for an intensification of the use to the scale as proposed. The site and surrounding road network does not clearly accommodate the traffic functions required of the use, and the impacts arising from the development, thereby resulting in unreasonable impacts, to the efficiency and safety of the road network, to its users and surrounding residents, during the relevant peak time of impact, and to the amenity of the neighbourhood.

#### **Development application**

The panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* for the reasons contained in the council assessment report and the following additional reason.

- (1) The site is not suitable for the degree of intensification of the use as currently proposed.

The decision was unanimous.

#### **REASONS FOR THE DECISION**




The panel determined to refuse the application for the reasons outlined above.

#### **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, access and parking
- Pedestrian safety
- Visual and acoustic amenity
- Bushfire protection works
- Drainage and flooding
- Ecological impacts
- Land contamination
- Air quality
- Construction and traffic management
- Payment of contributions

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)	 Sandra Hutton
 Juliet Grant	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-32 – Newcastle City Council – DA2019/00966
2	PROPOSED DEVELOPMENT	Alterations / Additions to Educational establishment (630 students), new Childcare Centre (79 places) and Subdivision – Community Title (two into three lots), associated site works, landscaping and signage
3	STREET ADDRESS	30 Vista Parade Kotara NSW 2289 (Lot 12 DP 560852 and Lot 131 262057)
4	APPLICANT/OWNER	Trustees Diocese of Maitland-Newcastle C/- Webber Architects
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 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 (State and Regional Development) 2011</li> <li>○ State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy No.64 – Advertising and Signage</li> <li>○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017</li> <li>○ Newcastle Local Environmental Plan 2012</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Newcastle Development Control Plan 2012</li> <li>○ Section 94A Development Contributions Plan 2009</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</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: 25 November 2020</li> <li>• Written submissions during public exhibition: 13</li> <li>• Verbal submissions at the public meeting on 2 December 2021: <ul style="list-style-type: none"> <li>○ Jonathan Russell, Brendan Grant</li> <li>○ On behalf of the applicant – Alan McKelvey, Sean Morgan</li> </ul> </li> <li>• Total number of unique submissions received by way of objection: 10</li> <li>• Supplementary Council assessment report: 16 March 2021</li> <li>• Verbal submissions at the public meeting on 29 March 2021: <ul style="list-style-type: none"> <li>○ Jonathan Russell</li> <li>○ On behalf of the applicant – Alan McKelvey, Sean Morgan, Kurt Daley and Sandra Hinchey</li> </ul> </li> </ul>

8	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Briefing: 3 June 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Juliet Grant and John MacKenzie</li> <li>○ <u>Council assessment staff</u>: Holly Hutchens, Amanda Gale, Michelle Bisson, Tracey Webb, Priscilla Emmett</li> </ul> </li> <li>• Site inspections: <ul style="list-style-type: none"> <li>○ Alison McCabe (Chair): 25 July 2020</li> <li>○ Sandra Hutton: 2 June 2020 and 2 December 2020</li> <li>○ Juliet Grant: 24 May 2020</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: 2 December 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton and Juliet Grant</li> <li>○ <u>Council assessment staff</u>: Amanda Gale, Amy Ryan, David Ryner, Roland Payne, Priscilla Emmett, Tracey Webb, Michelle Bisson</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: 2 December 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton and Juliet Grant</li> <li>○ <u>Council assessment staff</u>: Amanda Gale, Priscilla Emmett, Amy Ryan, David Ryner, Tracey Webb and Elsa Berger</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Refusal
10	<b>DRAFT CONDITIONS</b>	Not provided