

ADDENDUM TO COUNCIL ASSESSMENT REPORT OF 4 MARCH 2020

Panel Reference	2019HCC-4
DA Number	16-2019-445-1
LGA	Port Stephens
Proposed Development	Commercial premises (multiple-tenancies), medical centre, retail premises (pharmacy), Centre-based childcare facility (126 place), site works, civil works, signage, landscaping and one into four lot Torrens title subdivision.
Street Address	795 Medowie Road, Medowie 2318
Applicant/Owner	Applicant – Medowie Retail Unit Trust Owner – Port Stephens Council
Date of DA lodgement	16/07/2019
Number of Submissions	Nil.
Recommendation	Approval, subject to conditions.
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	The proposal is listed within Schedule 7, Part 3 of the State Environmental Planning Policy (State and Regional Development) 2011, being a Council related development with a capital investment value over \$5 million.
List of all relevant s4.15(1)(a) matters	Environmental planning instruments: s4.15(1)(a)(i) State Environmental Planning Policy 55 – Remediation of Land State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy 44—Koala Habitat Protection State Environmental Planning Policy (Educational Establishment and Child Care Facilities) 2017 State Environmental Planning Policy 64 – Advertising and Signage State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 Port Stephens Local Environmental Plan 2013 (PSLEP2013) Development Control Plan: s4.15(1)(a)(iii) Port Stephens Development Control Plan 2014
List all documents submitted with this report for the Panel's consideration	Attachment 1 – Amended Development Plans Attachment 2 –Amended Recommended Conditions of Consent Attachment 3 – Addendum Schedule of Appendices for application supporting documentation
Clause 4.6 requests	Nil.
Summary of key submissions	N/A.
Report prepared by	Dylan Mitchell – Senior Development Planner
Addendum Report date	24 April 2020

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

This addendum modifies and supplements the Council Assessment Report of 4 March 2020, submitted to the Hunter and Central Coast Regional Planning Panel (HCCRPP) for determination of Development Application (DA) 16-2019-445-1 – PPSHCC-4 for a commercial premises (multiple-tenancies), medical centre, retail premises (pharmacy), centre-based childcare facility and one into four lot Torrens title subdivision of proposed Lot 4 at 795 Medowie Road, Medowie.

The purpose of this addendum is to address the additional information requested by the HCCRPP following the deferral of DA 16-2019-445-1 – PPSHCC-4 at the public determination meeting held at Port Stephens Council on 18 March 2020. The reasons for deferral were to request amended plans detailing service provision (including waste and loading facilities), provision of bicycle and motorcycle parking, a redesign of retaining walls fronting the public domain and a revised location of public art.

Amended plans and additional information have been submitted by the applicant to address the matters raised by the HCCRPP in the Record of Deferral.

The additional information has been assessed, with regard to the matters raised by the HCCRPP in the record of deferral and under Section 4.15 of the EP&A Act and is considered satisfactory. Accordingly, it is recommended that the application be approved subject to the amended conditions of consent contained in **Attachment 2**.

1. RECOMMENDATION

That DA16-2019-445-1 for a commercial premises (multiple-tenancies), medical centre, retail premises (pharmacy), centre-based childcare facility and one into four lot Torrens title subdivision of approved Lot 4 at 795 Medowie Road MEDOWIE (LOT: 1 DP: 1215257) be approved subject to the conditions in **Attachment 2**.

2. INTRODUCTION

This addendum report provides a detailed overview of the amended plans and additional information submitted by the applicant to address the matters raised by the HCCRPP at the public determination meeting on 18 March 2020 and as detailed within the Record of Deferral for DA 16-2019-445-1 – PPSHCC-4.

3. BACKGROUND

A public determination meeting was held at Port Stephens Council on 18 March 2020. During the meeting, the panel resolved to defer DA 16-2019-445-1 – PPSHCC-4.

The reasons for deferral, as detailed in the Record of Deferral are as follows:

“The panel determined that Development Application 16-2019-445 for a commercial premises, medical centre, retail premises, childcare facility, civil and subdivision works at 795 Medowie Road, Medowie be deferred for the following

information:

- *Amended Plans that provide:*
 - i. *Details of servicing (garbage, loading and unloading) on site for all premises, and provision for bicycle and motorcycle parking.*
 - ii. *Redesign of the retaining wall to Peppertree Road and Muir Street so that the height is reduced so it is no more than 1m high within 1.5m of the boundary, or alternatively, a redesign so that provides an appropriate presentation to the street.*
 - iii. *Additional cross sections and long sections that demonstrate the relationship of the approved development to the residential boundaries and adjoining Woolworths site and approved service station.*
 - iv. *Drawings that show the height of the proposed retaining walls relative to adjoining properties.*
 - v. *Revised location of public art.*
- *On receipt of the additional plans Council prepare a supplementary report including appropriate conditions.*
- *That the matter be determined electronically.*

The decision was unanimous. The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution”.

4. AMENDED PROPOSAL

Amended plans and additional information have been submitted in response to the matters raised by the HCCRPP. The amended development plans include changes to earthworks (including retaining walls), provision of additional loading and servicing facilities, amendments to car parking and a revised location for public art.

Additional amendments have been made to facilitate the incorporation of the HCCRPP comments, including minor landscaping amendments, a reduction in car parking and alteration to the gross floor area of each building, including:

- Pharmacy/Medical/Commercial Premises – 1,285m²
- Centre based childcare facility – 810m²
- Commercial premises – 745m²

The amended plans include minor alteration to the roof form of the commercial building fronting Peppertree Road. The childcare building has been slightly increased in size to achieve compliance with the Education and Care Services National Regulations which requires that one bed be provided per baby within baby rooms. It is noted that this is not a requirement of the NSW Childcare Planning Guidelines or SEPP (Educational Establishments and Child Care Facilities) 2017.

The following section details the modifications made to the proposal in response to the matters raised by HCCRPP.

Site Retaining and Public Art

The proposed retaining walls fronting Peppertree Road and Muir Street have been redesigned to achieve an appropriate public interface and streetscape, as illustrated in the amended architectural plans and landscape plans.

The retaining has been reduced in height, setback further from the site boundary, terraced and landscaped. The retaining wall measures a height ranging between 1m and 1.9m fronting Peppertree Road and a maximum of 1.2m high fronting Muir Street. The retaining wall setback from the boundary ranges between 0m and 5m from the Peppertree Road property boundary.

The increased setback, being 5m at the main driveway entry from Peppertree Road allows for the tiering of retaining walls with heights of 1m and 1.5m, and represents a human scale. Additional landscaping and public art have also been integrated at this location, providing enhanced streetscape amenity. The 2m high section of retaining, located further along Peppertree Road, includes a sandstone feature to break up the otherwise blank walls and create visual interest.

The revised public art, subject to final approval from Council's public art committee, is envisaged as comprising two sculptural elements placed on the middle and upper level tiers of retaining, fronting Peppertree Road. The art would be integrated in the landscape design, with low level native vegetation growing around the art piece.

The additional survey data and the inclusion of approved buildings from neighbouring sites within the amended architectural set, as requested by HCCRPP, demonstrates the proposal will integrate with the surrounding built form. Additional section plans have also been included to better visually represent retaining and fencing.

Loading/Service Facilities

A dedicated service/loading bay for the commercial tenancies fronting Pepper Tree Road has been included, catering for a medium rigid truck. A short-term loading area has been allocated for smaller day-to-day business related deliveries.

A goods lift has been provided along the southern boundary of the development, providing access for ground level tenancies to waste and servicing facilities on the upper level.

The site waste enclosure, measuring an area of 11.4m² provides sufficient space for the volume of weekly waste generation indicated in the waste management plan, prepared by KDC and dated July 2019.

Car parking

Bicycle hoops have been provided at the front and rear of the commercial/pharmacy/medical tenancy fronting Peppertree Road. A third bicycle hoop is provided at the commercial building in the north eastern section of the site.

Motorbike parking spaces are provided central to the site in accordance with AS2890.1 and the Port Stephens Council DCP.

As a result of cumulative design changes, the number of car parking spaces has been reduced from a total of 104 spaces to 97.

5. PLANNING ASSESSMENT

This revised assessment considers only those matters relevant to the amended development. The remaining assessment remains unchanged from the Council Assessment Report of 4 March 2020.

5.1 *Environmental Planning and Assessment Act 1979 (EP&A Act)*

5.2 *Section 4.15 Evaluation*

5.2.1 *Section 4.15(1)(a)(i) provisions of any environmental planning instrument*

The amended development is consistent with the provision of the Port Stephens Local Environmental Plan 2013 (PSLEP) and all relevant SEPPs applicable to the proposal.

Port Stephens Local Environmental Plan 2013

The following section of the PSLEP is relevant to the amended proposal:

Clause 4.3 – Height of Buildings

The subject site has a maximum building height of 8m under the PSLEP 2013.

The amended plans include minor alteration to the roof form of the commercial building fronting Peppertree Road. As a result, a small section of the roof penetrates the maximum building height plane by 0.6m, resulting in a maximum height of 8.6m for the building. All other buildings remain below the maximum height limit of 8m.

Notwithstanding, the proposed building height is consistent with objectives of the clause, as the minor exceedance is not inconsistent with the context and character of the area and does not compromise the hierarchy of centers established in land use structures and the Medowie Planning Strategy.

Given the proposed building height exceeds the maximum building height for the site, further assessment is given against Clause 5.6 below.

Clause 5.6 – Architectural roof features

The objectives of Clause 5.6 are to encourage urban design outcomes to be interpreted through the use of architectural roof features and to aid orientation and movement through the urban landscape by landmarks identified through architectural roof features.

Clause 5.6 provides that development that includes an architectural roof feature that exceeds, or causes a building to exceed, the height limits set by clause 4.3 may be carried out, but only with development consent.

The amended plans include minor alteration to the roof form of the commercial building fronting Peppertree Road, resulting in a small section of the roof exceeding the maximum building height by 0.6m.

The roof section penetrating the maximum building height is a decorative architectural feature on the uppermost portion of the building. The architectural feature is not an advertising structure, does not include floor space and causes only minimal overshadowing of public space. The architectural feature does not contain or support any building identification signage or equipment for servicing the building.

The inclusion of the architectural feature improves the articulation of the façade which faces Peppertree Road, adding visual interest to the design. Furthermore, the accentuated roof form in the center of the building signifies a clear entry point for the building, thereby aiding movement through the urban landscape. On this basis, the exceedance of the height limits set by clause 4.3 are acceptable.

5.2.2 Section 4.15(1)(a)(ii) any draft environmental planning instrument that is or has been placed on public exhibition

The amended development is consistent with the provisions of the proposed Remediation of Land State Environmental Planning Policy and the Koala Habitat Protection SEPP 2019.

5.2.3 Section 4.15(1)(a)(ii) any development control plan (and section 7.11 plan)

Port Stephens Development Control Plan 2014

The amended development is consistent with the provisions of the Port Stephens Development Control Plan 2014 (DCP).

The following sections of the DCP are relevant to the amended proposal:

Chapter B4- Drainage and Water Quality

The amended development plans do not impact the proposed storm water and water quality management systems. The amended development has been reviewed by Council's Development Engineering Section and deemed satisfactory with regard to the provisions of Chapter B4.

Chapter B9 – Road Network and Parking

Parking

Bicycle hoops have been provided at the front and rear of the commercial/pharmacy/medical tenancy fronting Peppertree Road. A third bicycle hoop is provided at the commercial building in the north eastern section of the site. Motorbike parking spaces are provided central to the site in accordance with AS2890.1 and the Port Stephens Council DCP.

As a result of cumulative design changes, the number of car parking spaces has been reduced from a total of 104 spaces to 97. There are no changes to the number of accessible spaces. The reduced number of car spaces, remains consistent with the estimates provided within the Traffic Impact Assessment prepared by SECA Solution and dated 12 July 2019, which estimated a parking demand of between 88 and 94 spaces. This estimate considers that peak parking demands would occur across a range of times with some not occurring simultaneously. As such, there is the opportunity for some shared use of parking across the development to cater for the peak demands of each use and cater for any potential overflow parking as required.

Given the lower order commercial uses have not been identified at this stage and that there is opportunity for cross utilisation between uses, the car parking estimates applied within the TIA and supporting letter are considered an appropriate means of calculating the car parking requirements.

Loading Facilities and Access

A dedicated service/loading bay for the commercial/pharmacy/medical tenancies fronting Pepper Tree Road has been included, catering for a medium rigid truck. A five minute loading area has been allocated for smaller ongoing day to day business related deliveries. Both new loading spaces include adequate maneuvering areas to facilitate medium rigid truck movements.

Internal driveway access remains from Peppertree Road and is located on proposed Lot 1, while driveway access from Muir Street is located on Proposed Lot 3. To ensure legal access to Lot 2 and 4, a condition of consent is recommended, requiring reciprocal right of carriageway over internal driveways for all lots. Maintenance and public liability of those carriageways is to be the responsibility of the lot burdened.

5.2.4 Section 4.15(1)(a)(iia) Planning agreements

There are no planning agreements that are relevant to the proposed development.

5.2.5 Section 4.15(1)(a)(iv) the regulations (and other plans and policies)

There are no matters within the regulations that are relevant to the determination of the amended application.

5.2.6 Section 4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

No changes to the environmental impacts as those identified within the Council Assessment Report of 4 March 2020.

5.2.7 Section 4.15(1)(c) the suitability of the site for the development

The site is suitable for the amended development for the reasons identified within the Council Assessment Report of 4 March 2020.

5.2.8 Section 4.15(1)(d) any submissions made in accordance with this act or the regulations

The proposal was exhibited for a period of 28 days from 8 August 2019 to 5 September 2019 in accordance with the EP&A Act, EP&A Regulations and Section A of the DCP. Council received no submissions in relation to the development during that time.

The amended proposal does not involve any increased environmental impacts or material changes from those plans originally notified, with no further re-notification or advertising required.

5.2.9 Section 4.15 (1)(e) the public interest

The amended proposal is considered to be in the public interest for the reasons identified within the Council Assessment Report of 4 March 2020.

5.2.10 Section 7.12 Contributions

A monetary contribution is to be paid to Council, pursuant to Section 7.12 of the Environmental Planning & Assessment Act 1979 and the Port Stephens Council Fixed Local Infrastructure Contributions Plan, related to the Capital Investment Value (CIV) of the development. Accordingly, a condition has been recommended requiring monetary contribution in accordance with Section 7.12.

6. CONCLUSION

It is recommended that the Hunter and Central Coast Regional Planning Panel, as the consent authority, approve development consent to 16-2019-445-1 (2019HCC-4) for a commercial premises (multiple-tenancies), medical centre, retail premises (pharmacy), centre-based childcare facility (126 place), site works, civil works, signage, landscaping and one into four lot Torrens title subdivision at 795 Medowie Road, Medowie 2318 pursuant to Section 4.16 of the EP&A Act subject to the amended conditions in **Attachment 2**.

Signed (Assessing Officer)



Dylan Mitchell
Senior Development Planner

Date: 24/04/2020

Reviewed (Supervising Officer)



Rean Lourens
Planning and Developer Relations Coordinator

Date: 24/04/2020

Authorised for submission to HCCRPP



Kate Drinan
Manager Development Assessment & Compliance

Date: 24/04/2020