

Woolworths Moss Vale
PPSSTH-314 / DA-24/0212
Southern Regional Planning Panel
Public Determination Meeting
20 May 2025

Introduction

- Project Team Introduction
- Background & Journey with Council to date
- Responding to Various items raised in Council Assessment Report & Reasons for Refusal:
 - *The matters of outstanding owners consent has not been raised by Council at any point during the assessment period, all relevant owners consents have been furnished to Council. All appropriate commercial arrangements with land not owned by Fabcot are in place.*
 - *Access arrangements to proposed Lot 2 was a matter raised by TfNSW. Appropriate and compliant access was added to the plans in July 24. TfNSW have confirmed in writing they have no remaining issues with the proposed development.*
 - *All civil and stormwater matters raised by Council have been comprehensively closed out with Council's engineers following extensive liaison with Council engineers. No further matters were raised following our final submission. The final submission was endorsed by Council's engineers as satisfactory prior to lodgement of the final package of drawings/documentation.*
 - *No further traffic matters have been raised by Council's traffic engineer, it was confirmed in a meeting with TfNSW that Council was satisfied with the traffic arrangements.*
 - *Pedestrian access to the site is compliant and in accordance with the relevant Australian Standards as represented on the architectural and civil plans. There are clear pedestrian walkways identified from both Hoskins St and Argyle St. The Access Report lodged with the DA also confirms compliance. Pedestrian signals are being provided as part of the signalised intersection improving safety for pedestrians.*
- Addressing key Reasons for Refusal

Background

- Prior to the State Government's Employment Zones Reform program, the site was zoned *B5 Business Development* under the WLEP 2010. The proposed development was permissible with development consent in the B5 zone. The B5 zone objectives included the following objective: *To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area.*
- This was confirmed by Council in the pre-lodgement advice. Council's comments contained in its letter of 4 March 2023 (received June 2023), acknowledges the permissibility of the development in the B5 zone and raises no issue or comment in respect to the effect of the then proposed E3 zone.
- We proceeded with the acquisition of the 233 Argyle Street, Moss Vale.
- In Council's submission to the Employment Zone Reform Exhibition, dated 12 July 2022, Council's key request was that *"permissible land uses for each new zone reflect all of the currently permissible land uses for each relevant existing zone"*. The submission further outlines *"this is especially requested for the new E3 Productivity Support zone which will incorporate both our B5 Business development and B7 Business Park. The Shire does not have many areas of B7 land, but there are a few areas of B5, and of particular concern is the prohibition of shops"*. Council's position was to continue to support the land use of the site as proposed by this development application. Council cite in this submission the Mittagong Highlands Shopping Centre, which is now located in an E3 zone, as a key example of this.

Economic Impact on the Moss Vale Town Centre

Philippa Curtis, Associate Director - Location IQ

The proposed development will have an unacceptable Economic Impact on the Moss Vale Town Centre and therefore does not satisfy the Clause 4.15(1)(b) of the EP&A Act 1979 in respect of the likely economic impacts of the development in the locality.

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Traffic Assessment

Tim Rogers, Director - Colston Budd Rogers & Kafes

- TfNSW support to the development and the proposed signalised intersection has been received.
- The Council Assessment Report raises the following reasons for refusal not previously raised:
 - The applicant fails to provide sufficient information to address the additional traffic impact on the road network as a result of the development. Particularly, the submitted Traffic Assessment does not address the anticipated increase in traffic volumes turning right from Hoskins Street to Suttor Road, does not address the potential impacts on intersection performance, safety, sight distance and any additional safety measures at this intersection:

This issue of the impact of development traffic on the intersection of Hoskins Street/Suttor Road has not previously been raised by Council and was not assessed in the TIA as:

 - *Existing and development traffic flows through the intersection are low.*
 - *The intersection is a priority controlled t-intersection with no sight line constraints.*
 - *Nonetheless, to address this matter an assessment has been undertaken and furnished to the panel which demonstrates that development traffic would have minimal impact of the operation of the intersection of Hoskins Street/Suttor Road and no upgrades to the intersection are required.*
 - Based on TfNSW's concurrence, it is noted that vehicles over 12.5m can no longer turn into Valetta Street from Argyle Street. Insufficient information has been provided for the traffic impact on the surrounding road network and businesses for this proposal as a result of this traffic diversion: *No diversions of trucks will be required. TfNSW concurrence includes advice that: minor kerb adjustments to the northeast corner of the intersection, to facilitate 19m heavy vehicle left turn movements into Valetta Street, as shown in the sketch provided in Attachment 3a, taking into consideration the required extent of no stopping zone on Valetta Street.*

Objectives of the Zone

Emma Whitney, Special Counsel - Mills Oakley

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- Supportive advice has been provided by Corrs Chambers Westgarth and Mills Oakley which specifically addresses:
 - Is the development proposal inconsistent with the E3 zone objectives; and

An assessment of a development proposal against the relevant zone objectives has been held by the Land and Environment Court to require a development proposal which is 'not antipathetic' to the zone objectives (Moskovich v Waverley Council [2016] NSWLEC 1015). For the reasons set out below (including those set out in the advice from Corrs Chambers Westgarth, dated 28 November 2023) we consider that the proposed development is consistent with the relevant zone E3 objectives.

- Whether the proposed development would satisfy clause 4.15(1)(b) of the EP&A Act.
- The advice from Mills Oakley from November 24 is not represented in the Council Assessment Report.

Future Development on proposed Lot 2

Emma Whitney, Special Counsel - Mills Oakley

- The proposed development includes the subdivision of the subject land to create a lot on which the shopping centre will be located (Lot 1) and a vacant lot for a future development (Lot 2). As outlined in our response of 29 February 2024, there are currently no plans to develop Lot 2.
- Subsequent discussions with Council indicated that further consideration of the future use of Lot 2 is required due to its configuration and its relationship to the Lot 1 development. It was further suggested that the planning principles relating to site isolation would assist in that consideration, although acknowledging that the site itself was not characterised as an isolated site pursuant to the planning principles.
- Importantly, it should not be assumed that a site is isolated because it cannot achieve its 'maximum' allowable height, GFA or density, particularly in a zone (such as the E3 zone here) where a very broad variety of development types are permissible. As outlined in *Ausling v Willoughby City Council [2015] NSWLEC 1226* at 105, the task is to assess the acceptability within the planning framework rather than "measuring the proposal against the yardstick of design nirvana". The question is whether a site can be developed reasonably, having regard to the full range of planning uses allowable in the relevant zone and within the relevant planning framework.
- There is clearly a significant number of permitted uses which, either on their own or in combination with other permitted uses, would be capable of being developed reasonably on Lot 2 at a future time.
- Having regard to the relevant aspects of the planning principle of site isolation as outlined above, the future use of Lot 2 is clearly capable of being developed reasonably and when considering its shape, configuration and interface with the development proposed on Lot 1, having regard to the full range of planning uses allowable in the relevant zone and within the relevant planning framework.
- Planning Principle when dealing with subdivisions, Case Reference: *Parrott v Kiama [2004] NSWLEC 77*

Responses provided to items raised by public submissions during the determination meeting

- The boundaries of the development site are overstated in Figures 2, 3 and 4 of the Council Assessment Report.
- Boom gates are situated on the egress points only, adopting licence plate recognition technology. The aim is protect customer amenity, not generate income.
- Trucks/service vehicles access the site via Argyle Street, as reflected in our RFI response to Council dated 19 April 2024. A reduced size truck has been utilised as a result (14.7 metres). Hoskins Street is a secondary access point for customer vehicles only.
- The point of discharge on Lot 2 DP 1070183 is existing and legal pursuant to a registered easement, with flow lower than pre-development levels, as accepted by Council engineers - Thomas Rozenhal, Henry + Hymas (civil/stormwater engineer).
- The retail vacancy rate in the Moss Vale Town Centre is only ~3.4%, indicating a strong retail floorspace demand.
- The site is located only a few minutes walk from the drawn boundary of the local centre in the DCP.
- The noise levels associated with the proposal are compliant, recommended noise mitigation measures have been proposed - George Wei, Acoustic Logic.
- One-third of supermarket spend escapes the Moss Vale trade area, representing about \$35 million, as noted in the Table 4.1 Location IQ report - Gavin Duane / Philippa Curtis, Location IQ.
- Extensive community consultation was conducted (both prior to and during the assessment of the DA). Woolworths partnered with Ethos Urban to ensure a robust community engagement program was undertaken. This engagement program was designed in line with the key principles set out in Wingecarribee Shire Council's Community Engagement Strategy, which includes its Community Participation Plan. In addition, a project website was developed prior to lodgement of the DA and went live on 16/5/23 and has been updated regularly throughout the assessment process. Queries or concerns that were received via the website have been addressed promptly.