

DATE OF DETERMINATION	Friday, 27th March 2020
PANEL MEMBERS	Gordon Kirkby (Chair), Renata Brooks, Tim Fletcher, David Brown and Mark Carlon
APOLOGIES	None
DECLARATIONS OF INTEREST	Michael Mantei declared a conflicted of interest as he has given the owner of this site legal advice in respect of this site on a previous occasion. Mr Mantei did not participate in any Panel consideration or discussion of this development application.

Papers circulated electronically between 19 March 2020 and 26 March 2020.

MATTER DETERMINED

2019STH001 – Wollongong – DA-2018/1638 at 71-77 Kembla Street, Wollongong – mixed use building (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.

This application was reported to the Southern Regional Planning Panel (SRPP) for consideration on 27 November 2019. Determination of the application was deferred pending the submission and assessment of the following further information:-

- 1. Amended architectural plans that relocate the plant room on Level 8 and review of parapet heights and leading edges at Levels 7 and 8 to improve solar access to the units in the north facing elevation of the IRT building on Stewart Street.*
- 2. Amended shadow diagrams in elevation at 30 minute intervals that demonstrate the degree of improvement to the north facing elevation of the IRT building on Stewart Street arising from the amendments.*
- 3. Amended architectural plans and landscape plan that provide for additional canopy tree planting on the Level 2 communal area and in the south-eastern corner of the site near the as meter. This will result in removal or relocation of car parking spaces R40 and R41 within the existing confines of the basement.*
- 4. Details of how the existing mosaic can be relocated on site and incorporated into the building or common spaces.*
- 5. On receipt of the amended plans, a further report can be prepared which addresses the above matters and includes:*
 - a) appropriate conditions including any modification of DA-2017/1462;*
 - b) b modification to conditions to ensure landscape outcomes are successfully implemented.*

The Panel advised that, once the information has been received, the Panel will determine the matter electronically.

A supplementary assessment report from Council, dated March 2020 was received and circulated to the Panel. The report addressed revised plans and information to address the above matters for deferral.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Wollongong Local Environmental Plan 2009 (LEP), that has demonstrated that:

- a) compliance with cl. 8.6 (Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard.

the panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 8.6 (Building separation within Zone B3 Commercial Core or Zone B4 Mixed Use) of the LEP and the objectives for development in the B3 Commercial Core Zone. The variation to the building separation standard will enable the development to better respond to the pattern of development in the immediate locality; and
- c) the concurrence of the Secretary has been assumed.

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 proposed development is permissible with consent in the B3 Commercial Core zone under Wollongong LEP 2009
- The project as shown in the amended architectural plans is of an appropriate height, bulk and scale in the context of the Wollongong commercial core area;
- The panel is satisfied that the matters required to be addressed through revised plans following deferral of the determination have been submitted and adequately respond to the concerns raised by the panel. In particular:
 - The plant room on level 8 of Building B has been removed and the setbacks from the southern boundary to parts of Levels 6 and 7 of Building B have been increased.
 - The shadow diagrams accompanying the amended plans demonstrate an improved and acceptable overshadowing outcome on adjoining developments given the high-density context of the site in the Wollongong commercial core.
 - Additional deep soil planting area has been provided for on the level 2 communal area which will facilitate taller trees.
 - The Applicant has provided additional information to demonstrate that retention of the existing mosaic is not feasible. A Condition has been recommended that will require photographic recording of the mosaic to be displayed in the building's ground floor lobby area.
- The panel determined to uphold the Clause 4.6 variation to building separation; and approve the application for the reasons outlined in the council assessment report.

CONDITIONS





The development application was approved subject to the conditions in the council's supplementary assessment report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from members of the community that addressed the original panel hearing. The panel notes that issues of concern included:

- Flooding and stormwater
- Building separation to the eastern and northern boundaries
- Visual privacy of adjoining buildings
- Built form and urban design quality
- Public domain
- Shared access, manoeuvring and servicing arrangements across the neighbouring site to the north
- Heritage considerations
- Overshadowing impacts on the IRT building on the southern side of Stewart Street, and
- Retention of the DMR mosaic attached to the existing building on the site.

The panel considers that concerns raised by the community have been adequately addressed in the amended plans and supplementary assessment report. The panel notes that in addressing the design issues, the amended plans for the development were reviewed by the Chair of the Design Review Panel and found to be acceptable.

PANEL MEMBERS	
 Gordon Kirkby (Chair)	 Renata Brooks
 Tim Fletcher	 Mark Carlon

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019STH001 – Wollongong – DA-2018/1638
2	PROPOSED DEVELOPMENT	Mixed use development – fourteen (14) storey building comprising of one hundred and two (102) residential units and eight (8) commercial tenancies over two (2) levels of basement parking
3	STREET ADDRESS	71-77 Kembla Street, Wollongong Lot 502 DP 845275
4	APPLICANT/OWNER	ADM Architects City Investments Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development ○ State Environmental Planning Policy (Coastal Management) 2018 ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ State Environmental Planning Policy No 55 – Remediation of Land ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (State and Regional Development) 2011 ○ Wollongong Local Environmental Plan 2009 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Wollongong Development Control Plan 2009 ○ Wollongong Development Contributions Plan 2018 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Clause 92 – AS 2601 in respect of any demolition • 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: 13 November 2019 • Supplementary Council Assessment Report: 5 March 2020 • Clause 4.6 variation request attached to the Statement of Environmental Effects as Appendix 4. • Written submissions during public exhibition: 51
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY	<ul style="list-style-type: none"> • Briefing and Site Inspection: 11 March 2019 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Acting Chair) and Renata Brooks ○ <u>Council assessment staff</u>: Pier Panozzo, Rebecca Walsh, Theresa Whittaker and Felicity Skoberne • Final briefing to discuss council's recommendation, 27 November 2019, 11:00am. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Pam Allen (Chair), Alison McCabe, Renata Brooks, David Brown and Mark Carlon

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Linda David, Mark Riordan, Theresa Whittaker, Rodney Thew, Felicity Skoberne and Andrew Heaven • Papers were circulated electronically between Thursday, 19th March 2020 and Thursday, 26th March 2020
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report