

SOUTHERN REGIONAL PLANNING PANEL (SRPP)

SRPP No	2017STH019
DA Number	DA-2017/730, lodged 16 June 2017
Local Government Area	Wollongong
Proposed Development	Demolition of existing buildings and ancillary structures and the construction of a mixed use development above basement parking
Street Address	115-117 Keira Street Wollongong – Lot 1 DP 510890 131-135 Keira Street Wollongong – Lot C DP 65920 131-135 Keira Street Wollongong – Lot 1 DP 152849 137-141 Keira Street Wollongong – Lot 2 DP 152849 2 Thomas Street Wollongong – Lot 2 DP 12385 2A Thomas Street Wollongong – Lot B DP 345880 4 Thomas Street Wollongong – Lot 3 DP 12385 6 Thomas Street Wollongong – Lot 4 DP 12385
Applicant/Owner	ADM Architects
Number of Submissions	Six prior to meeting 29 November 2018 One lodged 5 December 2018
Regional Development Criteria (Schedule 4A of the Act)	General development over \$20 million Savings provisions in clause 24 have the effect of preserving the development as regionally significant development and the application is required to be referred to the Southern Regional Planning Panel for determination.
List of All Relevant s79C(1)(a) Matters	List all of the relevant environmental planning instruments: s79C(1)(a)(i) <u>State Environmental Planning Policies (SEPPs):</u> State Environmental Planning Policy No. 55 Remediation of Land State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy (State and Regional Development) 2011 <u>Local Environmental Planning Policies:</u> Wollongong Local Environmental Plan 2009 <u>Other policies:</u> NSW Apartment Design Guide Wollongong Section 94A Development Contributions Plan 2017 List any proposed instrument that is or has been the subject of public consultation under the Act and that has been notified to the consent authority: s79C(1)(a)(ii) State Environmental Planning Policy (Coastal Management) 2018 List any relevant development control plan: s79C(1)(a)(iii) Wollongong Development Control Plan 2009 List any relevant planning agreement that has been entered into under

	<p>section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F: s79C(1)(a)(iv)</p> <p>Nil</p> <p>List any coastal zone management plan: s79C(1)(a)(v)</p> <p>Wollongong Coastal Management Plan 2018</p> <p>List any relevant regulations: s79C(1)(a)(iv) e.g. Regs 92, 93, 94, 94A, 288</p> <p>Clause 94</p>
List all documents submitted with this report for the panel's consideration	<p>Architectural Plans by ADM Architects</p> <p>Survey Plan by C Robson & Associates</p> <p>Landscape Plans by Ochre Landscape Architects</p> <p>Revised Clause 4.6 WLEP 2009 statement by Knight Frank Planning</p> <p>Heritage funding letter by GML Heritage</p> <p>Heritage funding letter by CVC Law</p>
Recommendation	Approval subject to conditions contained in Attachment 7
Report by	Anne Starr, Senior Development Project Officer

Summary of s4.15 matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed and relevant recommendations summarized, in the Executive Summary of the assessment report?

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Yes**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Addendum Report and Recommendation Cover Sheet

Executive Summary

SRPP determination 29 November 2019

At the Southern Regional Planning Panel meeting of 29 November 2018, Council recommended approval of the development subject to draft conditions. The Panel determined to defer the application due to concerns with development departures and heritage conservation matters.

The Panel's decision:

The Panel determined to defer a final decision on the development application pending the receipt and assessment of amended plans and additional information.

Reasons for the decision:

- A *That a final determination of development application DA-2017/730 be deferred for the submission of the following amended plans and information:*
- 1. Detailed plans providing detail of the conservation works and proposed uses consistent with the GML Heritage schedule of conservation works and works required to meet the BCA.*
 - 2. Amended plans that provide Lobby A with natural light and ventilation. This will require amendment to the Thomas Street façade incorporating a large or relocated break in the façade*
 - 3. Detail of the mechanism for the on-going funding for the maintenance and upkeep of the heritage buildings. This is to include details of the heritage building being included as part of the overall strata scheme.*
 - 4. A revised clause 4.6 written variation request that properly references the correct LEP clauses and intent of the standard for each departure.*
- B *That a future report be prepared by Council on receipt of the plans including conditions to ensure the heritage outcomes anticipated by the GML report are incorporated.*
- C *That on receipt of the report, the Panel determine the matter electronically.*

Council submits this addendum report to SRPP as directed under 'B' above and seeks the Panel's determination of development application DA-2017/730.

RECOMMENDATION

It is recommended that DA-2017/730 be approved subject to the conditions outlined in Attachment 7.

1. SRPP MATTERS

The applicant's response to the SRPP decision is addressed below.

1. Detailed plans providing detail of the conservation works and proposed uses consistent with the GML Heritage schedule of conservation works and works required to meet the BCA.

Comment: A BCA compliance report has not been submitted. No new plans or heritage documents have been submitted.

The applicant has re-submitted the GML Heritage June 2017 Conservation Management Strategy (Attachment 6) and plans A26.1-D and A26.2-C (Attachment 2). As noted in Council's report to SRPP in November 2018, the plans do not show all works as recommended in the GML report's scope of works. It is proposed to address this matter by way of condition 25 as outlined below.

Existing draft condition of consent numbered 25 requires the BCA to be addressed prior to issue of the Construction Certificate. It is recommended this condition be retained.

25) ***BCA Upgrade Works and Conservation Works***

Prior to issue of the Construction Certificate, a detailed Schedule of Works is required showing all works proposed on the heritage buildings to meet both the BCA and the conservation works within the GML Heritage 'Schedule of Conservation Works'. The Schedule of Works is to be endorsed by the developer's heritage consultant and Council prior to issue of the Construction Certificate.

2. *Amended plans that provide Lobby A with natural light and ventilation. This will require amendment to the Thomas Street façade incorporating a large or relocated break in the façade.*

Comment: Revised plans have been submitted, which reconfigure the lift and fire stair location. The Thomas Street facade now incorporates a slot which extends through to the lift lobby. Refer basement and levels 1-6 floor plan.

3. *Detail of the mechanism for the on-going funding for the maintenance and upkeep of the heritage buildings. This is to include details of the heritage building being included as part of the overall strata scheme.*

Comment: The applicant has provided two letters (Attachments 4 and 5) from their Solicitors addressing on-going funding. No specific mechanism i.e. condition of consent, was suggested by the applicant. No conditions of consent were proposed in this regard in the original report to the Panel.

The solicitors letter does not consider future ownership structure if multiple subdivision applications are made. Instead, it generally recommends that 'the strata plan' include by-laws regarding maintenance of the heritage items. Typically, a mixed use building is separated into separate strata and or stratum schemes for commercial and residential components.

The solicitors letter also recommends 'the Owner's Corporation' provide a capital fund forecast over a 10-year period for both the maintenance of the heritage items and 'construction of the units'. It is unclear if the letter is referring to the apartments in the new tower building or proposed dwellings inside the heritage items. Council considers a combined sinking fund for the new building and the heritage items is undesirable as it does not clarify how the funds are to be allocated. Furthermore, Council considers any levy should be payable in perpetuity.

The GML letter refers to the solicitor's correspondence and recommends that a quantity surveyor's costing of works in the GML Conservation Management Strategy is obtained to inform the minimum amount needed to be raised in any strata scheme levy. This report has not been provided. Without a total overall conservation management amount, the proportional distribution between any strata schemes is uncertain.

Council has sought the views of in house Counsel in the preparation of draft conditions of consent to ensure the ongoing conservation and maintenance of the heritage items. The most practical way of ensuring this is by requiring the heritage items to remain in the common property of any strata plan for the residential units. A new condition of consent (condition 12) has been proposed in this regard. Another new conditions proposed is condition 51 requiring a heritage interpretation plan.

Counsel also recommends a condition (condition 102) requiring the conservation works recommended by GML to be done prior to issue of the occupation certificate. This will ensure that the developer is responsible for bringing the buildings up to an acceptable level of repair and conservation minimising the ongoing burden on any owner's corporation.

Counsel also recommends a condition (condition 103) requiring a the submission of a schedule of ongoing maintenance works to be provided prior to the issue of any occupation certificate. This is to ensure the ongoing upkeep of the heritage items in their post development condition (after the completion of works specified under this consent).

Counsel also recommends a condition (condition 104) requiring a Quantity Surveyor costing prior to the issue of an occupation certificate. This is to ensure an accurate costing for the works detailed in the endorsed Schedule of Ongoing Maintenance Works.

4. A revised clause 4.6 written variation request that properly references the correct LEP clauses and intent of the standard for each departure.

Comment: Council's report to SRPP in November 2019 noted that the applicant's clause 4.6 statement incorrectly interpreted clause 8.6 building separation in relation to Thomas Street by arguing the clause required no separation up to street frontage height, but not adequately addressing subclause (3) which requires 16m or 20m separation to adjoining buildings. This is relevant to apartment B102 on Level 1, where it is 5.06m from the non-residential building to the north, located on Lot 1 DP 742078. As the adjoining building is built to the boundary, the proposed building separation for apartment B102 is 5.06m. If the 16m required separation was shared equally between the two properties, proposed apartment B102 would need to have a setback of 8m, and not 5.06m as proposed.

A revised clause 4.6 statement dated 7 December 2018 has been submitted (Attachment 3).

2. PUBLIC SUBMISSION

Council received a late submission following the SRPP meeting of 29 November 2018. This submission has been considered. The submission raised matters already addressed in Council's report to the SRPP and/or matters of demonstrated compliance with Council policy, the submission did not raise any additional issues. No further changes to the conditions of consent are required in response to the submission.

3. RECOMMENDATION

It is recommended that DA-2017/730 be approved subject to the conditions outlined in Attachment 7.