

DATE OF DETERMINATION	4 December 2018
PANEL MEMBERS	Justin Doyle (Chair), Bruce McDonald, Nicole Gurran, Mick Fell and Chris Van Der Kley
APOLOGY	Nil
DECLARATIONS OF INTEREST	Nil

Public meeting held at Blue Mountains City Council on Tuesday 4 December 2018 opened at 2.00pm and closed at 5.35pm.

MATTER DETERMINED

Panel Ref – 2018SWT004 - LGA – Blue Mountains, DA-X/163/2018, Address – 119 Cliff Drive and 34 Violet Street, Katoomba (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 matters observed at site inspections listed at item 8 in Schedule 1.

The Panel took into account the written and oral submissions made for and against the proposal including the persons addressing the meeting identified at item 7 of the Schedule below, and the response of the Council staff. Following the public meeting the Panel members adjourned to deliberate on the matter and formulate a resolution.

The Panel voted 4:1 to refuse the development application under s.4.16 of the *Environmental Planning & Assessment Act 1979*.

REASONS FOR THE DECISION

1. The Panel unanimously concurred that it would not be appropriate or in the public interest for the development application to be approved in its current form for reasons including :

- a) The height of the proposed auditorium significantly exceeds each of:

- (i) the maximum building height shown for the land on the Height of Buildings Map,
- (ii) the height permitted if particular preconditions are met under clause 4.3A, and
- (iii) the proposed height proposed in clause 4.3(A) the draft amendment to LEP 2015 that has been exhibited but not made,

with the height exceedance likely to result in the increased prominence of the auditorium in significant publicly available views of the property within the visual catchment of the Megalong Valley (a key feature of the world heritage listed Blue Mountains National Park). The Panel considers that the integrity of the views of the

bushland setting in which the proposed auditorium is to be sited is a critical issue for planning of the site, and no significant adverse impact on the present bushland presentation from significant publicly available views within the visual catchment of the Megalong Valley (a key feature of the Blue Mountains National Park) is acceptable.

- b) The Panel did not accept that variation to the numerical height development standard applying to the site under clause 4.3 (applying clause 4.3A) to permit the development was reasonable or necessary in all the circumstances having regard to:

(i) the objective of ensuring that the bulk of development is not excessive and relates well to the local context,

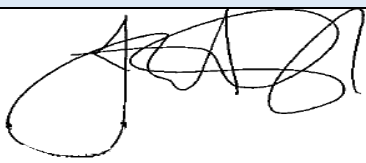
(ii) the likely protrusion of the completed auditorium above the existing tree canopy of vegetation adjacent to the building (particularly following vegetation removal necessary for fire risk mitigation as well as proposed additional benching and forming of retaining structures), and

(iii) alternatives available to accommodate a reasonable upgrade of facilities on the site, and on adjacent land owned by the applicant,

and the Panel concluded that there were insufficient environmental planning grounds to justify contravening the development standard as proposed.

- c) An increase in the capacity of the site (facilitated by increasing the capacity of the auditorium and accommodation facilities) could not be supported given the existing traffic issues experienced on Cliff Street, and the reliance on that Street as means of evacuating the site and the bushfire risk affecting the property.
- d) The proposed design would likely result in excessive removal of natural foliage with a consequent reduction of the site's scenic bushland quality.
- e) Inadequate (and in places contradictory) information had been supplied as to the final form of the development with particular attention to issues of likely tree removal, bushfire risk and consequent impacts on the visual catchment of the development.
- f) The Panel was not satisfied that a better bushfire outcome will be achieved by the proposed development of the site taking into account the proposed works and mitigation measures, incomplete advice received from the RFS, and absence of a resolved evacuation strategy in case of a bushfire emergency. Further the Panel is concerned that the extent of tree and other foliage removal likely to be required to secure a better bushfire outcome could significantly expose the proposed development and compromise the bushland character of the site from important publicly accessible views of the Blue Mountains National Park context in which the site is placed
- g) The proposal fails to satisfy the provisions of SEPP (Infrastructure) 2007 as the applicant has failed to provide adequate material to allow an assessment by Roads and Maritime Services of the impact of the proposal on the associated road network including intersection with the Great Western Highway.

- h) The extent of removal of natural foliage that would result from the proposed design would result in a significant reduction in the site's bushland quality.
2. The application did not include sufficient information as to how the large numbers of persons attending significant events would be managed to mitigate impacts on the amenity of adjoining residential premises due to noise and traffic volumes.
 3. A majority of four members of the Panel were of the opinion that the development application should be refused for those reasons, with one Panel member seeing sufficient merit in deferral of determination of the development application taking into account the advice of the applicant that it was willing to make significant changes to the development application and to supply additional information to address the concerns identified above. The remainder of the Panel noted the applicant's request to defer the determination, but formed the view that the extent of modifications to the development's height and scale, were such that a new development application would be required.

PANEL MEMBERS	
	
Justin Doyle (Chair)	Bruce McDonald
	
Nicole Gurran	Mick Fell
	
Chris Van Der Kley	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	Panel Ref – 2018SWT004 - LGA – Blue Mountains, DA-X/163/2018
2	PROPOSED DEVELOPMENT	Demolition of existing buildings, earthworks, construction of new place of public worship, visitor accommodation, café, ancillary buildings, landscaping works and car parking.
3	STREET ADDRESS	119 Cliff Drive and 34 Violet Street, Katoomba
4	APPLICANT/OWNER	Applicant – Katoomba Christian Convention Ltd

5	TYPE OF REGIONAL DEVELOPMENT	Development with a capital investment value of over \$30million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy No.44 – Koala Habitat Protection - State Environmental Planning Policy No. 55 – Remediation of Land - State Environmental Planning Policy (Infrastructure) 2007 - State Environmental Planning Policy (State and Regional Development) 2011 - Sydney Regional Environmental Planning Policy 20: Hawkesbury-Nepean River - Local Environmental Plan 2015 - Draft environmental planning instruments: Local Environmental Plan 2015 Draft Amendment 3 - Development control plans: - Development Control Plan 2015 - Development Control Plan 2015 Draft Amendment 2 - Planning agreements: Nil <i>Environmental Planning and Assessment Regulation 2000</i>: 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	- Council assessment report dated 22 November 2018 - Written submissions during public exhibition: 13 - Verbal submissions at the public meeting: - Support – Nil - Object – Carolyn Williams and Margaret Baker on behalf of the Blue Mountains Conservation Society; Alan Moule, Patricia Walters and Peter Marshall - On Behalf of the applicant – Jonathan Dykes, Shelley Taylor, John Travers, Ellen Robertshaw, Andrew Duffin and Chris Watson - On behalf of Council – Brian Mercer and Alex Williams
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	- Briefing – 23 July 2018 - Final briefing meeting to discuss council's recommendation – 4 December 2018 from 1.00pm to 2.00pm - Public Meeting – 4 December 2018 Attendees:

		○ <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Bruce McDonald, Mick Fell and Chris Van Der Kley ○ <u>Council assessment staff</u>: Brian Mercer and Alex Williams
9	COUNCIL RECOMMENDATION	Refusal
10	CONDITIONS	N/A