

DATE OF DETERMINATION	7 October 2022
DATE OF PANEL DECISION	7 October 2022
DATE OF PANEL MEETING	30 August 2022
PANEL MEMBERS	Chris Wilson (Acting Chair), Renata Brooks, Tim Fletcher, Michael Mantei, Cr David Brown
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Determination briefing held by teleconference on 30 August 2022, opened at 1:30 and closed at 2:30am. Papers circulated electronically on 18 August 2022.

MATTER DETERMINED

PPSSTH-118 – Wollongong – DA-2021/1168 – 72-76 Crown St Wollongong – Demolition of two (2) existing structures, construction of a new nine (9) storey office building with four (4) levels of basement parking and adaptive reuse of existing heritage 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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

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 (WLEP), that has demonstrated that:

- compliance with cl. 4.3 and cl. 8.6 is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.3 and cl. 8.6 (development standard) of the WLEP and the objectives for development in the B3 Commercial Core zone; and
- 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 Panel determined to uphold the Clause 4.6 variation to building height 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 Assessment Report subject to the following changes.

In its determination, the Panel raised the enforceability of condition 4 relating to egress from the site via Moore Lane, should this become available. Following advice from Council, and further consideration by the Panel, it was satisfied that condition 4 provides sufficient certainty and is therefore enforceable. However, it was considered prudent that an advisory note which supports the implementation of condition 4 be inserted into the Instrument of Consent immediately after condition 4. The note is reproduced below, and Council is requested to insert this note prior to issuing the final Instrument.

Note to Applicant

‘With any future application for subdivision (Strata or Community Title) of the subject development, Council will be seeking the imposition of a restriction and/or covenant on title alerting prospective purchasers of the requirements and obligations of condition 4 above’.

Additional operational condition:

Condition 39(a) was included requiring the preparation of a Pedestrian and Traffic Management Plan **prior** to the release of the construction certificate to address pedestrian safety and, how pedestrian/vehicle conflicts in Moore Lane will be managed both prior to and after the implementation of changes to traffic flows in Moore Lane. This was a consequence in part of the implementation of Condition 4 which provides for the implementation of alternative access arrangements via Moore Lane and the closure of the western access to Crown Street.

Initial changes to the draft conditions requested by the Panel:

- Former ‘deferred commencement’ conditions A, B and C relating respectively to the preparation of a Heritage Interpretation Plan, Schedule of Conservation Works and Heritage Construction Management Plan are now operational conditions 13A, 13B, and 114A. The Panel was not satisfied that these conditions were justified as ‘deferred commencement’ and were acceptable as operational conditions.
- Condition 1 was amended to Include all documentation relied upon in the Panel’s decision including the SEE, and all relevant technical reports in the list of documents. This was to provide clarity around documentation relevant to the determination and ongoing parameters of the development.
- Condition 9 was amended to refer to a height limit of 34.21m which reflects the height provided in relevant plans and assessed accordingly.
- Condition 62 was deleted given a strata subdivision was not proposed as part of the development application.
- Condition 88 was amended to *include the words ‘Qualitative Wind Statement prepared by SLR Ref: 610.30565-R01 Version No: -v1.3 dated April 2022’*. This was to reflect the requirements of the most recent version of the Qualitative Wind Statement






Further changes to the draft conditions required by the Panel:

- Condition 83 is to be deleted as it is a duplicate of condition 40. This is to ensure clear requirements for Asbestos Hazard Management.
- Conditions 93 and 96 are to be reworded to ensure consistency regarding hours of work and operation.

- Conditions 89 and 98 are to be amended to reference the unexpected finds condition (48) noting the assessment report argues that the site is not contaminated. If these conditions are intended to apply in the event of unexpected finds, they should reference Condition 48.
- Condition 4 was amended to include the advisory note as discussed above.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes that issues of concern included compatibility with character of the area, traffic impacts, loss of Tourism Opportunities and impacts on local businesses. The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report.

PANEL MEMBERS	
 Chris Wilson (Acting Chair)	 Renata Brooks
 Tim Fletcher	 Michael Mantei
 David Brown	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-118 – Wollongong - DA-2021/1168
2	PROPOSED DEVELOPMENT	Demolition of two (2) existing structures, construction of a new nine (9) storey office building with four (4) levels of basement parking and adaptive reuse of existing heritage building
3	STREET ADDRESS & LEGAL DESCRIPTION (LOT/DP)	72-76 Crown Street WOLLONGONG (Lot 1 DP 127333, Lot B DP 153923)
4	APPLICANT/OWNER	ADM Architects for Shelljames Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT (Schedule 7; SRD SEPP 2011)	General development over \$30 million
6	MATTERS FOR CONSIDERATION (s 4.15(1) of the EP&A Act)	a) The provisions of <ul style="list-style-type: none"> (i) Environmental planning instruments (s4.15(1)(a)(i)): <ul style="list-style-type: none"> • SEPP (Resilience & Hazards) 2021 • SEPP (Koala Habitat Protection) 2021 • SEPP (Transport & Infrastructure) 2021 • SEPP (Planning Systems) 2021 • Wollongong Local Environmental Plan (WLEP) 2009 (ii) Draft environmental planning instruments (s4.15(1)(a)(ii)): <ul style="list-style-type: none"> • N/A (iii) Development control plans (s4.15(1)(a)(iii)): (iv) Wollongong Development Control Plan (WDGP) 2009 (v) Planning agreements (s4.15(1)(a)(iiiia)):

		<ul style="list-style-type: none"> • N/A <p>(vi) the <i>Environmental Planning and Assessment Regulation 2000</i> (s4.15(1)(a)(iv)):</p> <ul style="list-style-type: none"> • Clause 92(1)(a) demolition <p>b) The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p> <p>c) The suitability of the site for the development</p> <p>d) Any submissions made in accordance with the Act or regulations</p> <p>e) The public interest</p>
7	MATERIAL CONSIDERED BY THE PANEL	<p>a) Council assessment report: 16 August 2022</p> <p>b) Information included in the development application pursuant to Clause 50 of the Regulations including:</p> <ul style="list-style-type: none"> (i) Architectural plans prepared by ADM Architects dated September 2021; (ii) Statement of Environmental Effects prepared by Cardno dated 30 September 2021; <p>c) Clause 4.6 variation – Building Separation (Clause 8.6) Clause 4.6 variation – Building Height (Clause 4.3)</p> <p>d) Written submissions during public exhibition: 8</p> <p>e) Total number of unique submissions received by way of objection: 8</p>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 3 March 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Acting Chair), Renata Brooks, Tim Fletcher, Michael Mantei, Cr David Brown ○ <u>Council assessment staff</u>: Brad Harris, Pierre Panozzo • Site inspection: 22 February 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Acting Chair), Renata Brooks, Tim Fletcher, Michael Mantei, Cr David Brown ○ <u>Council assessment staff</u>: Brad Harris, Pier Panozzo, Mark Adamson • Final briefing to discuss council's recommendation: 30 August 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Acting Chair), Renata Brooks, Tim Fletcher, Michael Mantei, Cr David Brown ○ <u>Council assessment staff</u>: Brad Harris, Pier Panozzo ○ <u>Applicant representatives</u>: Angelo Di Martino (ADM Architects), Nadine Page (Cardno), Russell Lee (Heritage Consultant), Tony Prodanovski (Property Owner)
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report and as outlined above