

DATE OF DEFERRAL	4 June 2024
DATE OF PANEL DECISION	3 June 2024
DATE OF PANEL MEETING	28 May 2024
PANEL MEMBERS	Chris Wilson (Chair), Juliet Grant, Grant Christmas, David Brown
APOLOGIES	Marjorie Ferguson, Tina Christy
DECLARATIONS OF INTEREST	None

Public meeting held by videoconference on 28 May 2024, opened at 2pm and closed at 3.45pm.
Papers circulated electronically on 21 May 2024 (as described in Schedule 1)

MATTER DEFERRED

PPSSTH-200 – Wollongong – DA-2022/1126 at Innovation Campus 7-9 Squires Way NORTH WOLLONGONG NSW 2500 – St George Illawarra Dragons Community and High-Performance Centre, including site preparation works, construction of a two-storey building, two playing fields, a car parking area and associated landscaping, tree removal and public domain works.

REASONS FOR DEFERRAL

The Panel considered the matters listed at Item 6, the material listed as Item 7 and the material presented at the briefings and the matters observed at the site inspection listed at item 8 in Schedule 1. The Panel also considered all issues raised at the public determination meeting.

The Panel deliberated and agreed to defer determination of the matter.

The Panel noted that during the determination meeting several key concerns were raised by the community which included:

- Function of the proposal;
- Exacerbated flood conditions;
- Impacts on residential amenity including noise (from users of sporting fields, traffic/car noise), light spill, poor language; hours of operation;
- Visual impact of 20m light towers associated with the community field;
- Impact of lighting on fauna;
- Lack of car parking to service the development and potential impact on car parking elsewhere;
- Traffic generation including concerns regarding the safety of the Elliotts Road/ Squires Way intersection;
- Use of the facility for functions;
- The need for additional conditions; and
- Bus movements through Cowper St and bus drop off/ and pick up points and bus parking.

Whilst the Panel accepted the Council's report had comprehensively addressed all relevant matters, it agreed there was some ambiguity in relation to several matters that in the Panel's mind required clarification.

In addition to this, the Applicant addressed the Panel and advised that it did not agree with recommended draft conditions 18, 21, 22, 23, 33, 51, 61, and 150 which relate to development contributions, flooding, and stormwater management.

The Panel was not provided with any written correspondence regarding the Applicant's objections to these conditions prior to the public determination meeting. The Applicant did provide reasons at the meeting and requested that:

- Condition 18 (Development Contributions) be struck out entirely as in its view the DA meets the exemption requirements set out under the Wollongong City Council Contributions Plan (2021); and
- Conditions 21,22,23,33,51,61 and 150 be amended to provide for flexibility in formulating performance design outcomes for flooding post decision.

It is noted the proposal as exhibited provided for the construction of the two-storey building and associated car park on piers to enable the unfettered movement of flood waters across the site. The Applicant now seeks flexibility in final design (at the Construction Certificate stage) subject to additional modelling, to potentially remove the piers and fill underneath both the building and car park.

The Applicant confirmed it agreed to all other draft conditions including conditions 51 and 156.

The Council advised that it was of the view that:

- The development did not meet the exemption requirements set out under the Wollongong City Council Contributions Plan (2021);
- Detailed modelling would be required to inform consideration of the adequacy of the detailed design response to flooding and stormwater as identified above; and
- The Panel must be satisfied that development is compatible with the flood function and behaviour of the land and consideration of flood conveyance is a precondition (cl 5.21 of Wollongong LEP) to the Panel granting development consent should it determine to approve the DA.

The Panel was of the opinion that providing such flexibility through the conditions was at odds with the *Environmental Planning and Assessment Act, 1979* in that (should the DA be approved) it defers the proper assessment of a key issue to post determination, and furthermore, any such condition would be inconsistent with the key principles governing the imposition of conditions of consent, particularly the principle of certainty.



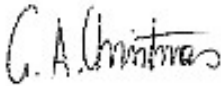

Given the above, the Panel adjourned the meeting and resolved to defer the determination of the matter pending:

- The Applicant providing clear details on the overall function of the facility and operational parameters (including the use of function space);
- The Applicant providing clarification of parking requirements, provision and justification as to why the facility will not have an impact on existing street parking;
- The Applicant providing details relating to surveys and methodology underpinning the noise impact assessment, particularly as it relates to the use of the community field (Field 2);
- The Applicant providing written justification for its objections to any recommended draft conditions of consent to which they are unable to provide agreement including justification for:
 - its proposed exemption from Council contributions.
 - deferring the final design of the building and car park as it relates to flooding and stormwater outcomes (including from a statutory perspective).
- The Applicant providing comment on the additional draft conditions recommended by the community; and
- The Council providing a supplementary assessment report, and if applicable, updated recommended draft conditions of consent.

The Panel expects the information requested of the Applicant be submitted to Council within 7 days from the date of this deferral record. Council is requested to update its assessment and draft conditions where applicable within 2 weeks of the receipt of the Applicants additional information. If the revised information from the Applicant is not provided within 7 days, the Panel may move to determine the DA based on the information currently at hand.

Once the Panel has received the supplementary assessment report from Council responding to the material and the matters raised above, the Panel will determine the matter electronically. It should be noted that under the *Environmental Planning and Assessment Act (1979)* the approval of the Minister must be obtained should the Panel wish to either refuse the application or impose a condition of consent not agreed to by a Crown applicant.

The decision to defer the matter was unanimous.

PANEL MEMBERS	
 Christopher Wilson (Chair)	 Juliet Grant
 Grant Christmas	 David Brown

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-200 – Wollongong – DA-2022/1126
2	PROPOSED DEVELOPMENT	St George Illawarra Dragons Community and High Performance Centre. Site preparation works, construction of a two storey building, two playing fields, a car parking area and associated landscaping, tree removal and public domain works
3	STREET ADDRESS	Innovation Campus 7-9 Squires Way NORTH WOLLONGONG NSW 2500
4	APPLICANT/OWNER	Ella Coleman / University of Wollongong (UoW)
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
		Crown development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Biodiversity & Conservation) 2021 ○ State Environmental Planning Policy (Industry and Employment) 2021 ○ State Environmental Planning Policy (Resilience & Hazards) 2021 ○ State Environmental Planning Policy (Transport & Infrastructure) 2021 ○ Wollongong Local Environmental Plan (WLEP) 2009 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Wollongong City-Wide Development Contributions Plan (2021) ○ Wollongong Community Participation Plan 2019 ○ Wollongong DCP 2009 • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> • 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: 7 May 2024 • Written submissions during public exhibition: 76 (25+51) • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Sara Tomka, Brendon Wright, Bradley Fowler, Ian Young, John Maguire, Suzanne Karpinski, Darryl Hawker. ○ Council assessment officer – Theresa Whittaker ○ On behalf of the applicant – Michael Oliver, Ryan Webb, Andrew Lancaster ○ Total number of unique submissions received by way of objection: 39 (25+14)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection: 21 February 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, David Brown

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Pier Panozzo, Mark Adamson, Amanda Kostovski ○ <u>Other</u>: Amanda Moylan (DPHI) <ul style="list-style-type: none"> • Council / Applicant Briefing: 21 February 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, David Brown ○ <u>Council assessment staff</u>: Pier Panozzo, Mark Adamson, Amanda Kostovski ○ <u>Applicant representatives</u>: Sophie Kuszniarczyk (Ethos Urban), Marcel Bartrac (Bridge 42), Louis Lemessurier (Bridge 42), Chris Beattie (Neo Grp) ○ <u>Other</u>: Amanda Moylan (DPHI), Tracey Gillett (DPHI) • Council / Applicant Briefing: 24 October 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas, David Brown ○ <u>Council assessment staff</u>: Theresa Whittaker, Pier Panozzo, April Wilkinson, Amanda Kostovski ○ <u>Applicant representatives</u>: Ella Coleman (Ethos Urban), Chris Beattie (Neo Grp), Marcel Batrac (Bridge42), Ryan Webb (Dragons), Kathleen Packer (UOW), Marc in het Panhuis (UOW), Mark Roberts (UOW), Michael Oliver (Ethos Urban), Grant Henman, Al Baxter ○ <u>Other</u>: Amanda Moylan (DPHI), Tim Mahoney (DPHI), Tracey Gillett (DPHI) • Final briefing to discuss council's recommendation: 28 May 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas, David Brown ○ <u>Council assessment staff</u>: Theresa Whittaker, Mark Adamson, Amanda Kostovski, Andrew Haven, April Wilkinson, Jenna Andrews, Joel Thompson, Linda Davis, Mathew Carden, Rebecca Welsh, Suri More. ○ <u>Other</u>: Amanda Moylan (DPHI), Tracey Gillett (DPHI)
9	COUNCIL RECOMMENDATION	Approved subject to draft conditions not agreed to by the Crown applicant
10	DRAFT CONDITIONS	Attached to the Council Assessment Report (Attachment 7)