

DETERMINATION AND STATEMENT OF REASONS

SOUTHERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	6 December 2024
DATE OF PANEL DECISION	5 December 2024
DATE OF PANEL BRIEFING	3 December 2024
PANEL MEMBERS	Chris Wilson (Chair), Grant Christmas, Natasha Harras, Marjorie Ferguson
APOLOGIES	None
DECLARATIONS OF INTEREST	Juliet Grant (Juliet is an employee of Gyde. Gyde has been engaged by the neighbouring property) <i>COI assumed for Tina Christy due to same as JG (Gyde)</i>

Papers circulated electronically on 27 November 2024.

MATTER DETERMINED

PPSSTH-225 – Wollongong – DA-2023/156 at 2-4 Gladstone Avenue & 357-363 Crown Street Wollongong – Mixed use - demolition of existing structures and construction of a nineteen (19) storey shop-top housing development, including car parking and associated earthworks and landscaping (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.

Request to depart from 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) 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) of the LEP and the objectives for development in the E2 Commercial Zone; 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 panel determined to uphold the request to depart from a development standard under clause 4.6 in relation to building separation and approve the application for the reasons outlined in the Council Assessment Report.

The key assessment issue for this application involved the potential impact of the development on a locally listed heritage item (fig tree) located in the southeast corner of the site. The panel was of the view that there was a level of uncertainty regarding solar access and the tree which required additional consideration prior to determination. Subsequently, the panel appointed an independent arborist to provide further advice as to whether the identified changes in solar access would be acceptable.

While the independent arborist agreed that the more sunlight the tree received the better the outcome, the arborist concluded the following:

"I have reviewed the Applicant's arboricultural material and plans and considered Council's concerns, and it is my opinion the Applicant's arboricultural analysis is sufficiently detailed to indicate the tree is not likely to suffer long term decline solely on the basis of overshadowing".

Whilst the independent arborist did not anticipate that the tree would be adversely affected by overshadowing, a number of conditions of consent were recommended relating to the monitoring of the tree's health, the adoption of a staged methodology for the removal of existing pavement under the tree, and the need for a site and tree specific Tree Protection Plan to protect the tree's roots. These requirements have been incorporated into the conditions of consent as imposed.

The panel determined to approve the application for the reasons outlined in the council's Assessment Report and was satisfied that:

- The prerequisites for the grant of consent had been met.
- The impacts associated with the heritage listed tree had been fully considered and were acceptable.
- The development would not result in any unacceptable amenity, environmental or land use safety impacts subject to the imposition of the conditions of consent as amended.
- The development would contribute to the housing needs of the Illawarra Region and would provide for additional retail activity in the CBD.
- A thorough assessment in terms of Section 4.15 of the *Environmental Planning and Assessment Act, 1979* had been undertaken.

Given the above, the Panel was satisfied that the development was in the public interest.

CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- Condition 55 was amended to include a reference to trees 4 & 11 in relation to tree retention and protection consistent with condition 12.




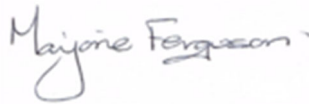
CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Insufficient car parking
- Traffic impacts to Parkinson and Osborne St and Crown St traffic lights
- No local grocery shopping opportunities forcing all residents to use their cars
- Insufficient building separation (cl 4.6 request)
- Potential wind tunnelling impacts
- Variations to DCP setbacks creates a poor precedent
- Overshadowing of streets

- Inadequate notification period in respect of neighbourhood forum meeting dates
- Concern the building will protrude above the escarpment
- Cost of development and determination authority
- Concern about a tunnel access along Crown St
- Maximum height and compliance
- Car parking calculations
- Separation distances

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report.

PANEL MEMBERS	
 <p>Christopher Wilson (Chair)</p>	 <p>Grant Christmas</p>
 <p>Natasha Harras</p>	 <p>Marjorie Ferguson</p>

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-225 – Wollongong – DA-2023/
2	PROPOSED DEVELOPMENT	Mixed use - demolition of existing structures and construction of a nineteen (19) storey shop-top housing development, including car parking and associated earthworks and landscaping
3	STREET ADDRESS	156 at 2-4 Gladstone Avenue & 357-363 Crown Street Wollongong
4	APPLICANT/OWNER	Level 33 / WOLLONGONG INVESTMENTS NO.5 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"> ○ SEPP (Planning Systems) 2021 ○ SEPP (Resilience and Hazards) 2021 ○ SEPP 65 – Design Quality of Residential Apartments ○ SEPP (Transport and Infrastructure) 2021 ○ SEPP (Building Sustainability Index: BASIX) 2004 ○ Wollongong Local Environmental Plan (WLEP) 2009 ○ Wollongong City-Wide Development Contributions Plan • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Wollongong Development Control Plan 2009 • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</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: 27 November 2024 • s4.6 departure from development standard – cl 8.3 WLEP (building separation) • Written submissions during public exhibition: 4 • Total number of unique submissions received by way of objection: 4
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 28 March 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, Natasha Harras, David Brown ○ <u>Council assessment staff</u>: Nigel Lamb; Amanda Kostovski, Pier Panozzo, John Wood ○ <u>Applicant representatives</u>: Charbel Kazzi (Wollongong Investments No.5), Troy Loveday (Planning Ingenuity), John Kavanagh (BKA Architecture), Alfonso Casanova (BKA Architecture), Jesus Garcia (BKA Architecture) ○ <u>DPHI</u>: Amanda Moylan, Tracey Gillett • Site inspection: 28 March 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, Natasha Harras, David Brown ○ <u>Council assessment staff</u>: Nigel Lamb; Amanda Kostovski, Nigel Lamb, Pier Panozzo, John Wood

		<ul style="list-style-type: none"> • Briefing: 10 October 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, Natasha Harras, David Brown ○ <u>Council assessment staff</u>: Nigel Lamb, Pier Panozzo, Amanda Kostovski, Janelle Johnston ○ <u>Applicant representatives</u>: Charbel Kazzi (Wollongong Investments No.5), John Baker, Troy Loveday (Planning Ingenuity), Jeff Mead (Planning Ingenuity), John Kavanagh (BKA Architecture), Alfonso Casanova (BKA Architecture), Jesus Garcia (BKA Architecture), Shaun Carter (BKA Architecture / Carter Williamson) ○ <u>Other</u>: Amanda Moylan (DPHI), Tim Mahoney (DPHI), Tracey Gillett (DPHI) • Briefing: 25 June 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, Natasha Harras, David Brown, Marjorie Ferguson ○ <u>Council assessment staff</u>: Nigel Lamb, Mark Adamson ○ <u>Applicant representatives</u>: Charbel Kazzi (Level 33), Eddy Haddad (Applicant), David Gownlock (Arborist), Angus Lynch (BKA Architecture), Troy Loveday (Planning Ingenuity), Shaun Carter (Carter Williamson) John Baker (BKA Architecture) ○ <u>Other</u>: Amanda Moylan (DPHI), Tracey Gillett (DPHI) • Final briefing to discuss council's recommendation: 3 December 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, Natasha Harras, Marjorie Ferguson ○ <u>Council assessment staff</u>: Nigel Lamb, Pier Panozzo, Mark Adamson ○ <u>Applicant representatives</u>: Charbel Kazzi (Level 33); Eddy Haddad (Level 33), Troy Loveday (Planning Ingenuity), Jeff Mead (Planning Ingenuity), Jesus Garcia, John Baker ○ <u>DPHI</u>: Amanda Moylan, Tracey Gillett
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report