

<b>DATE OF DETERMINATION</b>	15 October 2024
<b>DATE OF PANEL DECISION</b>	15 October 2024
<b>DATE OF PANEL BRIEFING</b>	2 October 2024
<b>PANEL MEMBERS</b>	Chris Wilson (Chair), Grant Christmas, Natasha Harras, Tina Christy
<b>APOLOGIES</b>	Juliet Grant, David Brown
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 25 September 2024.

#### **MATTER DETERMINED**

PPSSTH-277 - Wollongong - DA-2023/615 at 4 Lindsay Evans Place, Dapto; Lot 1 DP 1082602 - Seniors Housing – demolition of existing buildings and ancillary structures, removal of trees, construction of two (2) residential three (3) and four (4) storey buildings comprising 51 apartments with basement carparking and multi dwelling housing comprising nine (9) single storey dwellings, associated infrastructure, signage 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.

The Panel had the benefit of a final briefing from Council and the Applicant.

In its deliberation the Panel sought confirmation from Council that there was sufficient evidence to demonstrate that the site could be remediated appropriately for its intended use. Council confirmed its view that, based on the results of the DSI, the site could be rendered suitable for the proposed residential development having regard to Clause 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021, subject to the preparation and implementation of a RAP, subsequent validation, and ongoing management where appropriate.

#### **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 (LEP), that has demonstrated that:

- compliance with section 108(2)(a) of SEPP (Housing) 2021 (Height of building) is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

the Panel was satisfied that:

- the applicant's written request adequately addressed 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 section 108(2)(a) of SEPP (Housing) 2021 (Height of building) and the objectives for development in the R2 – Low Density Development zone and the SEPP (Housing) 2021; 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 contravention request to building height and approve the application for the reasons outlined in the Council Assessment Report. In particular, the Panel was satisfied that:

- Seniors housing is permissible in the R2 Low Density Development zone under Wollongong Local Environmental Plan 2009 albeit the Applicant nominates SEPP (Housing) 2021 as the relevant EPI and seeks to rely on permissibility under the SEPP.
- The proposal is consistent with the objectives of both the R2 zone and the SEPP (Housing) 2021.
- The preconditions to the grant of consent have been satisfied including those established in the Resilience and Hazards SEPP relating to contamination and remediation.
- The height and scale of the proposed buildings respond well to site constraints and are compatible with surrounding land uses.
- The Clause 4.6 contravention is well justified on planning grounds having regard to both the built form and positive housing outcomes.
- The development promotes good residential amenity and will provide for a diversity of housing in the Illawarra region.
- The potential amenity, environmental and land use planning impacts likely to result from the proposed development have been properly examined in accordance with Section 4.15 of the *Environmental Planning and Assessment Act, 1979* and found to be acceptable subject to the imposition of the conditions of consent as amended.

## CONDITIONS

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

- Conditions 132 and 136 were incorporated/amended to ensure new residents would have access to the bus service provided with Stage 1 of the development in perpetuity.

The Panel also considered the Applicant's comments on the draft conditions of consent as follows:

- Condition 2 (Tree Management) – The Applicant requested the tree numbering be amended and the total number of specified trees be removed. Council noted inconsistencies across the various plans which support the DA and recommended Condition 2 be amended to reflect the tree plan contained in the plan provided by Plus Architecture Dwg. No. PLA-AR-DA-0300. The Condition should specify that the total number of trees to be removed is amended from 35 to 34. The Panel accepted the Council's recommended amendment.
- Condition 18 (Street Trees). The applicant raised concerns regarding the recommended street tree planting requirements and responsibility for the ongoing management of trees on the Princes Hwy Road verge. The Council confirmed it was within power to impose a condition regarding the planting of trees in the road verge which was the Council's responsibility. The Panel requested that the condition be amended to require street tree planting in the road verge in consultation with and to the satisfaction of Council. This is to give both Council and the Applicant time to consider appropriate locations, numbers and species of trees to be planted.
- Condition 19 (External Finishes). The Council agreed with the Applicant's request to delete the following text: *To ensure the development is compatible with the surrounding environment, colours and finishes are to be muted bushland tones. In this regard white, light or bright colours are not permissible* as these requirements would limit the integration of the finishes with the stage 1 development.
- Condition 29 (Remedial Action Plan) – no change.
- Condition 30 (Site Validation Report) – no change.
- Condition 31 (Containment cell) - amended to include "if required" as requested by the Applicant.

- Condition 59 (Tree Protection Implementation) - amended as proposed by the Applicant to include the text *"identified in Condition 2"*.
- Condition 77 (Tree Protection and Management) - amended as proposed by the Applicant to include the text *"identified in Condition 2"*.
- Condition 112 (Compensatory Planting) – the Applicant requested this condition be amended to require 30 trees, however, Council advised that 31 trees are being removed (as identified in condition 2) and therefore 31 trees should be replanted. The Panel agreed that Condition 112 should remain unchanged.





It should be noted that both Council and the Applicant accepted the final Instrument of Consent.

#### 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:

- Construction Traffic Impacts.
- Parking for construction workers.
- Environmental impacts.

The Panel considered that concerns raised by the community had been adequately addressed in the Assessment Report and through the conditions of consent as amended, and no further assessment was warranted in this regard.

PANEL MEMBERS	
 <p>Christopher Wilson (Chair)</p>	 <p>Grant Christmas</p>
 <p>Natasha Harras</p>	 <p>Tina Christy</p>

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-277 - Wollongong - DA-2023/615
2	PROPOSED DEVELOPMENT	Seniors Housing – demolition of existing buildings and ancillary structures, removal of trees, construction of two (2) residential three (3) and four (4) storey buildings comprising 51 apartments with basement carparking and multi dwelling housing comprising nine (9) single storey dwellings, associated infrastructure, signage and landscaping.
3	STREET ADDRESS	4 Lindsay Evans Place, Dapto; Lot 1 DP 1082602
4	APPLICANT/OWNER	Anglican Community Services
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Housing) 2021</li> <li>State Environmental Planning Policy No 65-Design Quality of Residential Apartment Development</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>Wollongong Local Environmental Plan (WLEP) 2009</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Wollongong City-Wide Development Contributions Plan 2024</li> <li>Wollongong Development Control Plan 2009</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council Assessment Report: 24 September 2024</li> <li>Section 108(2)(a) of State Environmental Planning Policy (Housing) 2021 (Height of building)</li> <li>Applicant response to draft conditions of consent: 30 September 2024</li> <li>Written submissions during public exhibition: 2</li> <li>Total number of unique submissions received by way of objection: 2</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Council / Applicant Briefing: 14 November 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas</li> <li><u>Council assessment staff</u>: Nicole Ashton, April Wilkinson, Kristy Robinson</li> <li><u>Applicant representatives</u>: Candice Pon (Anglicare), Daniel Jukic (Anglicare), Ed Wortman (Anglicare), Amit Julka (Plus</li> </ul> </li> </ul>

		<p>Architecture), Alvin Sim (Plus Architecture), Kendal Mackay (DFP Planning), Cristie Evenhuis (DFP Planning), Benjamin Parks (Place Design Group), Tim Field (Place Design Group)</p> <ul style="list-style-type: none"> <li>○ <u>DPHI</u>: Tim Mahoney, Tracey Gillett</li> </ul> <ul style="list-style-type: none"> <li>● Site inspection: 14 November 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas</li> <li>○ <u>Applicant representatives</u>: Candice Pon (Anglicare)</li> <li>○ <u>DPHI</u>: Tim Mahoney</li> </ul> </li> <li>● Final briefing to discuss council's recommendation: 2 October 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, Natasha Harras, Tina Christy</li> <li>○ <u>Council assessment staff</u>: Vivian Lee, John Wood, Suri Mora, John Madry, Andrew Haven</li> <li>○ <u>Applicant representatives</u>: Cam Byrne (Anglicare), Christopher Yiannakis (Anglicare), Kendal Mackay (DPF Planning), Cristie Evenhuis (DPF Planning), Tim Field (Place Design Group), Ben Parks (Place Design Group), Alvin Sim (Plus Architecture), Richard Abbott (RJA Projects), Stephen Naughton (PTC Consultants)</li> <li>○ <u>DPHI</u>: Amanda Moylan</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the Council Assessment Report