

<b>DATE OF DEFERRAL</b>	15 April 2024
<b>DATE OF PANEL DECISION</b>	12 April 2024
<b>DATE OF PANEL BRIEFING</b>	9 April 2024
<b>PANEL MEMBERS</b>	Chris Wilson (Chair), Juliet Grant, Grant Christmas, Alice Glachan, David Thurley
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 3 April 2024.

#### **MATTER DEFERRED**

PPSSTH-294 – Albury City Council – DA10.2023.40336.1 at 481, 485 and 487 Swift Street, Albury – Seven (7) Storey Mixed Use, Shop Top Housing Development - Comprising of Thirty Two (32) Apartments, Two (2) Commercial Tenancies, Swimming Pool, Carpark, Demolition of Three (3) Residences (including Heritage Item 164 and 166) & Thirty Four (34) Lot Strata Title Subdivision and Consolidation of Existing Titles.

#### **REASONS FOR THE DEFERRAL**

The Panel agreed to defer the determination of the matter until further information and an addendum assessment report and revised recommended draft instrument of consent had been provided by Council for the Panel's consideration. Matters to be addressed included the following:

1. Noise Impact Assessment. The Panel considered it was not able to determine the application in the absence of a noise impact assessment (NIA) prepared in accordance with the NSW EPA Noise Policy for Industry (2017) and/or other applicable legislation relevant to the acoustic environment. Whilst noting the Applicant's view regarding acoustic compliance of adjoining land uses, the Panel considered that such an assessment was a pre-condition to the grant of consent and could not be dealt with by way of condition. It was further determined that any such assessment should include:
  - a) the project description
  - b) results of background and any other noise measurements
  - c) meteorological conditions and other relevant details at the time of the measurements
  - d) details of instruments and methodology used for noise measurements (including reasons for settings and descriptors used, calibration details)
  - e) a site map showing noise sources, measurement locations and potential noise receivers
  - f) noise criteria applied to the project
  - g) noise predictions for the proposed development including traffic noise including deliveries and waste collection, loading dock noise, supermarket carpark noise and mechanical plant and equipment noise, use of the rooftop swimming pool and other

recreational facilities within the building and other noise associated with the development.

- h) a comparison of noise predictions against noise criteria
- i) a discussion of proposed design mitigation measures, the noise reduction likely following inclusion of these measures, and the feasibility and reasonableness of these measures
- j) acoustic treatment measures that can be practicably incorporated into the building design to ensure appropriate acoustic amenity.





2. Contamination. The Panel noted that the draft recommended conditions of consent also included a requirement for the preparation and submission of a detailed site investigation (DSI) report to determine the full extent of elevated metal and benzo(a)pyrene concentrations within the fill material on site. The Panel acknowledges that the presence of structures onsite would hinder the full profiling of contaminants at this stage. It also accepts that there are methods available to clean up the site to ensure the ongoing safety of future residents.

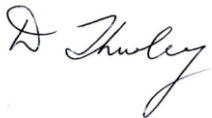
However, this has not been spelt out in the preliminary site investigation (PSI) report. As a pre-requisite to the grant of consent, the Panel must be satisfied that this is indeed the case, and further, should contaminants be found that require remediation, that appropriate conditions of consent have been recommended to ensure the appropriate clean-up of the site. This would normally include the preparation of a remediation action plan (RAP) and conditions relevant to the site audit and certification/verification process.

The panel expects the revised information referred to above to be submitted to Council within 4 weeks from the date of this deferral record. Council is requested to provide an addendum assessment report and revised recommended instrument of consent within 2 weeks of the receipt of the additional information. Should the revised information from the applicant not be provided within 4 weeks, the Panel may move to determine the DA based on the information currently at hand.

When this information has been received, it will be uploaded to the Department of Planning, Housing, and Infrastructure website, and a further briefing between the Panel and Council will be convened.

The decision to defer the matter was unanimous. The panel adjourned the briefing to deliberate on the matter and formulate a resolution.

PANEL MEMBERS	
 Chris Wilson (Chair)	 Juliet Grant
 Grant Christmas	 Alice Glachan

 David Thurley	
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SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-294 – Albury – DA10.2023.40336.1
2	PROPOSED DEVELOPMENT	Seven (7) Storey Mixed Use, Shop Top Housing Development - Comprising of Thirty Two (32) Apartments, Two (2) Commercial Tenancies, Swimming Pool, Carpark, Demolition of Three (3) Residences (including Heritage Item 164 and 166) & Thirty Four (34) Lot Strata Title Subdivision and Consolidation of Existing Titles
3	STREET ADDRESS	Lot PT20 DP 780123 located at 481 Swift Street, Albury Lot PT20 Sec 24 DP 780123 located at 485 Swift Street, Albury LOT 1 DP 912511 located at 487 Swift Street, Albury
4	APPLICANT/OWNER	Applicant: Mr Craig McPartland from Habitat Planning Owner: 481 Swift Street Pty Ltd
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 (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy (BASIX) 2004</li> <li>State environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</li> <li>Albury Local Environmental Plan 2010</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Albury Development Control Plan 2010</li> </ul> </li> <li>Planning agreements: One (1)</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: 27 March 2024</li> <li>• Written submissions during public exhibition: 6</li> <li>• Total number of unique submissions received by way of objection: 3</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing and Site Inspection: 27 September 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas, Alice Glachan</li> <li>○ <u>Council assessment staff</u>: Sharna Holland, David Christy</li> <li>○ <u>Applicant representatives (briefing)</u>: Craig McPartland (Habitat Planning), Martin Reid (Joss Construction), Colin Joss (Joss Group)</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: 9 April 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas, Alice Glachan, David Thurley</li> <li>○ <u>Council assessment staff</u>: Sharna Holland, Matt Wilson</li> <li>○ <u>Applicant representatives</u>: Craig McPartland (Habitat Planning), Martin Reid (Joss Construction), Colin Joss (Joss Group), Adam Joss (Joss Group)</li> <li>○ <u>Other</u>: Peter Smith (Smith &amp; Tzannes), Timothy Mahoney (DPHI)</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	<b>Approval</b>
10	DRAFT CONDITIONS	Attached to the Council Assessment Report