

DATE OF DETERMINATION	29 May 2025
DATE OF PANEL DECISION	27 May 2025
DATE OF PANEL MEETING	20 May 2025
PANEL MEMBERS	Chris Wilson (Chair), Natasha Harras, Stephen Leathley, Richard Colley
APOLOGIES	Grant Christmas
DECLARATIONS OF INTEREST	Juliet Grant (Executive Director of Gyde - Gyde made a submission in relation to the proposed development.)

Public meeting held by videoconference on 20 May 2025, opened at 2:30pm and closed at 4:40pm.
Papers circulated electronically on 13 May 2025.

MATTER DETERMINED

PPSSTH-314 – Wingecarribee – DA24/0212 at 231 Argyle Street, Moss Vale (Lot 11 DP 1192264), 233 Argyle Street, Moss Vale (Lot 1 DP 1192022), 2 Dalys Way, Moss Vale (Lot 2 DP 1192022) and Argyle Street, Moss Vale (Lot 2 DP 1070183)– Two (2) lot Torrens Title Subdivision, Construction of a neighbourhood shopping centre on one of the new lots including on-site car parking and associated intersection works (including traffic signals), civil and landscaping works as well as the installation of business identification signage (as described in Schedule 1).

BACKGROUND

Panel members have inspected the site and were briefed by both Council and the Applicant on 13 February 2024. The Council provided further progress reports on 17 April 2024 and 20 May 2025 respectively. The **key** issues of concern for the Panel as identified in the notes of those meetings related to the:

- Economic impact of the proposal on the Moss Vale Town Centre
- Functionality and design of the Argyle Street access
- Hoskins Street access and vehicular impacts on adjoining residential area
- Future use of Lot 2

On 13 May 2025 Council uploaded an assessment report which included a recommendation for refusal and reasons for the recommendation. On the 20 May 2025 the Applicant provided information in support of its application including its presentation to the public determination meeting (including Location IQ's), a retail needs assessment, an updated acoustic report, advice on subdivision planning, legal advice on the need or otherwise for the proposal to be consistent with the objectives of the E3 Productivity Support zone and the view that the proposal satisfies Section 4.15(1)(b) of the EP&A Act, and various submissions on traffic and transport.

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 concluded that its fundamental concern regarding the developments likely adverse economic and social impacts on the Moss Vale Town Centre had not been satisfied.

Contrary to the Applicant's view, and consistent with Council's position on this matter, the Panel concluded that the proposal did not satisfy Section 4.15(1)(b) of the Environmental Planning and Assessment Act for the following reasons:

- The proposal is not a natural extension of the Moss Vale Local Centre. It is not within the zoned Town Centre, but more importantly, the shopping complex lacks a well-designed physical interface and pedestrian access to encourage foot traffic between the Town Centre and the Woolworths complex. This is compounded by the main retail complex being set well back within the site and pedestrian access being via the car park. This lack of integration will result in a standalone retail destination accessible primarily by car.
- Whilst accepting that the proposal would reduce the amount of economic activity lost to other regional retail centres, the Panel agrees with Hill PDA's conclusion that the scale of the proposed Woolworths supermarket would have a negative impact on the viability and sustainability of the Town Centre by redirecting sales to the proposed complex.
- Consequently, the proposal would result in unacceptable social impacts. Economic and social impacts are inextricably linked. Main streets in regional towns are significant contributors to the community and civic life. Places that are communal and accessible provide opportunities for social connection and are therefore important to the community's well-being. It is the Panel's view that the predicted loss of trade for a significant period of time will undermine the current economic stability of the Town Centre resulting in the loss of business, businesses and associated foot traffic, resulting in the loss of a sense of place and community.

The Panel accepted the Council's other recommended reasons for refusal with some minor changes as outlined below. The Panel agreed that the development proposal was not in the public interest.

Development application

The Panel determined to refuse 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 refuse the application for the reasons outlined in the Council Assessment Report and the reasons set out in Schedule 2 with some minor changes as follows:

- Reason 2 (b) has been reworded and now reads as:
"Pedestrian access and the physical interface to encourage pedestrian movements between the Town Centre and the Woolworths complex are poorly designed"
- Reason 3 (b) has been removed
- Reason 6 has been amended to remove the following text:
"Lot 2 DP 1192022"

The panel was satisfied that the Council had undertaken a thorough assessment of the material available as required under section 4.15 of the *Environmental Planning and Assessment Act 1979*.

CONDITIONS

Council recommended refusal and therefore no conditions of consent were prepared.





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:

- Unacceptable traffic and parking impact from the proposed development
- Inconsistency with the objectives of the zone.
- Cumulative impact of the proposed development
- Reliance on construction of the bypass road which is not yet built.
- Flooding, drainage and sewage impacts as a result of the proposed development
- Size of proposed signage and impact of signage on character of the area.

- Consistency with DCP, in particular traffic impacts.
- Social and economic impacts on town centre.
- Insufficient information has been provided, in respect of traffic, VPA, water and sewer and how the future development of the vacant lot will be managed.
- Community engagement process.
- Site suitability from an economic and locational perspective.
- Lack of Economic Impact Assessment within DA.
- Economic Impact on Moss Vale.
- Amenity impacts on adjoining properties including noise, hours of operation, truck movements.
- Bulk and scale of the proposed development.

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 <p>Christopher Wilson (Chair)</p>	 <p>Natasha Harras</p>
 <p>Stephen Leathley</p>	 <p>Richard Colley</p>

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-314 – Wingecarribee – DA24/0212
2	PROPOSED DEVELOPMENT	Two (2) lot Torrens Title Subdivision, Construction of a neighbourhood shopping centre on one of the new lots including on-site car parking and associated intersection works (including traffic signals), civil and landscaping works as well as the installation of business identification signage
3	STREET ADDRESS	231 Argyle Street, Moss Vale (Lot 11 DP 1192264) 233 Argyle Street, Moss Vale (Lot 1 DP 1192022) 2 Dalys Way, Moss Vale (Lot 2 DP 1192022) Argyle Street, Moss Vale (Lot 2 DP 1070183)
4	APPLICANT/OWNER	Applicant - Woolworths Group Limited Owners – Woolworths Group Limited, Wingecarribee Shire Council, Transport Asset Holding Entity, Endeavor Energy
5	TYPE OF REGIONAL DEVELOPMENT	Council related 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 (Resilience and Hazard) 2021 State Environmental Planning Policy (Biodiversity and Conversation) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 Wingecarribee Local Environmental Plan 2010 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Moss Vale Enterprise Corridor Development Control Plan 2008 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: 13 May 2025 Written submissions during public exhibition: 493 Late submissions: 6 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Kay Wood (Tatton Park Residents), Claire McKay, Ingrid Skirka (Southern Highlands Matters), Ian Scandrett, Jonathan Crowe, Ken Smith, Benjamin Graham, Michael Jenet, Terrance Stafford Council Consultant Assessment Planner – Jeremy Swan On behalf of the applicant – Jessica Thomas, Thomas Rozenhal, George Wei, Philippa Curtis, Emma Whitney Total number of unique submissions received by way of objection: 461
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 13 February 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, Julie Walsh, Stephen Leathley, Natasha Harras

		<ul style="list-style-type: none"> ○ <u>Council Consultant Assessment Planner</u>: Jeremy Swan (The Planning Hub) ○ <u>Applicant representatives</u>: Paul Hume (Premise), Tony Pratt (Woolworths), Donal Challoner (Nettleton Tribe), Tim Rogers (Colston Budd Rogers & Kafes) ○ <u>DPHI</u>: Amanda Moylan, Tim Mahoney, Tracey Gillett <ul style="list-style-type: none"> ● Site inspection: 17 January 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair) ● Site inspection: 17 April 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Natasha Harras ● Briefing: 17 April 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Grant Christmas, Natasha Harras, Stephen Leathley ○ <u>Council Consultant Assessment Planner</u>: Jeremy Swan (The Planning Hub) ○ <u>DPHI</u>: Amanda Moylan ● Final briefing to discuss council's recommendation: 20 May 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Natasha Harras, Stephen Leathley, Richard Colley ○ <u>Council assessment staff</u>: Jon Shillito, Bryce Koop, Andre Vernez, Luke Johnson ○ <u>Council Consultant Assessment Planner</u>: Jeremy Swan (The Planning Hub) ○ <u>DPHI</u>: Amanda Moylan, Nikita Lange, Tracey Gillett
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

SCHEDULE 2 – REASONS FOR REFUSAL

This application has been assessed having regard for Section 4.15 (Matters for consideration) under the EPA Act. As such, it is recommended that Development Application No. DA-24/0212 be refused for the following reasons:

1. Pursuant to Section 4.15(1)(b) the proposed development will have an unacceptable Economic Impact on the Moss Vale Town Centre and therefore does not satisfy Clause 4.15(1)(b) of the EP & A Act 1979 in respect of the likely economic impacts of the development in the locality.
2. Pursuant to Section 4.15(1)(b) the proposed development results in an unacceptable Urban Design and Planning perspective in respect of:
 - (a) Landscaping across the site is inadequate with large areas of at grade car parking provided without any landscaping.
 - (b) “Pedestrian access and the physical interface to encourage pedestrian movements between the Town Centre and the Woolworths complex are poorly designed”
 - (c) The design doesn’t have regard to future use of Lot 2.
 - (d) The site is not suitable for the proposed development with limited street frontage.
3. Pursuant to Section 4.15(1)(b) the proposed development will have an unacceptable traffic and access impacts in respect of:
 - (a) The applicant fails to provide sufficient information to address the additional traffic impact on the road network as a result of the development. Particularly, the submitted Traffic Assessment does not address the anticipated increase in traffic volumes turning right from Hoskins Street to Suttor Road, does not address the potential impacts on intersection performance, safety, sight distance and any additional safety measures at this intersection.
 - (b) The proposed pedestrian footpath relies on acquiring a portion of 229 Argyle Street Moss Vale and dedicate this portion of land as road reserve. No owner’s consent has been provided for the dedication of the land as public road reserve.
 - (c) Insufficient information has been provided on the proposed realigned footpath on the western side of the main entry to Woolworths, particularly no right of access for public use or equivalent has been proposed over the realigned footpath.
 - (d) The development will generate additional traffic that will impact Hoskins Street and Hawkins Street. This triggers Hoskins Street and Hawkins Street to be upgraded for the full width, including kerb and gutter on both sides, from the secondary access point up to 8 Hawkins Street Moss Vale to service the development.
 - (e) No Concept Road and Drainage Upgrade Plan has been provided for Hoskins Street and Hawkins Street upgrade to demonstrate how the road upgrades will impact the existing features within the road reserve, including driveway crossings, services, overhead powerlines and street trees.

(f) Inadequate access arrangement on Proposed Lot 2.

4. Pursuant to Section 4.15(1)(a) the Pylon sign fronting Argyle Street is located on land zoned SP2 which is a prohibited.
5. Pursuant to Section 4.15(1)(b) the applicant has provided no details of how the Proposed Lot 2 could be developed which is considered essential given the awkward and irregular leftover parcel of land with limited street frontage.
6. Pursuant to Section 4.15(1)(a) the Applicant has not provided owner consent in respect of works Lot 2 DP 1070183.
7. Pursuant to Section 4.15(1)(a) the applicant has not provided owners consent in respect of the legal point of discharge into Lot 2 DP 10006620.
8. Pursuant to Section 4.15(1)(b) the application proposes boom gates fronting Argyle Street located on SP2 land which is considered not appropriate on Council land.
9. Pursuant to Section 4.15(1)(c) the proposed development does not satisfactorily demonstrate that the site is suitable for the proposed development.
10. Pursuant to Section 4.15(1)(b) the proposed development does not satisfy the objectives of the zone when considered against the provisions of Clause 4.15(1)(b).
11. Pursuant to Section 4.15(1)(e) having regard to the above matters, the granting of development consent is not considered to be in the public interest.