

DETERMINATION AND STATEMENT OF REASONS
SOUTHERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	30 July 2024
DATE OF PANEL DECISION	30 July 2024
DATE OF PANEL BRIEFING	30 July 2024
PANEL MEMBERS	Chris Wilson (Chair), Juliet Grant, Grant Christmas
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 19 July 2024.

MATTER DETERMINED

PPSSTH-400 - SHOALHAVEN – DA2024/1326 at 2,4,6,8,10 Beinda Street and 53,55,57 Bolong Road BOMADERRY NSW 2541 – Demolition of existing structures, lot consolidation and construction of two (2) x residential flat buildings comprising 60 build-to-rent apartments and 70 car parking spaces (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 briefings listed at item 8 in Schedule 1.

Contravention of a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Shoalhaven Local Environmental Plan 2014 (SLEP), the Panel was satisfied that the Applicant had demonstrated that:

- compliance with cl. 4.1 (Height of Building) was unreasonable or unnecessary in the circumstances; and
- there were sufficient environmental planning grounds to justify contravening the development standard.

The Panel was further satisfied that:

- the applicant's written request adequately addressed the matters required to be addressed under cl 4.6 (3) of the SLEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.1 Height Building of the SLEP and the objectives for development in the R3 Medium Density Residential zone; 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 contravention of the development standard under Clause 4.6 relating to building height and approve the application for the reasons outlined in the Council Assessment Report and as follows:

- The proposal is permissible in the R3 Medium Density Zone under the Shoalhaven LEP 2014 and is consistent with zone objectives to provide a variety of housing types and to provide for the housing needs of the community.
- The proposal satisfies the relevant provisions of applicable SEPPs. Notably, 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 site of the proposed development is well suited to the intended use.
- The height and scale of the proposed buildings respond well to site constraints and is compatible with both existing and emerging and surrounding adjoining land uses.
- The Clause 4.6 contravention is justified on planning grounds having regard to both the built form outcomes and the positive social outcomes.
- Adequate services are available to the site.
- The proposal will have positive social and economic benefits by increasing housing supply (including affordable) in the Shoalhaven, creating employment through construction, and facilitating greater expenditure in the area in general.
- 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 conditions of consent.
- The panel has carefully considered all the relevant issues raised in submissions and concludes they have been resolved through design and by the conditions of consent as imposed.

CONDITIONS

With the agreement of Council and the applicant, the Panel requested draft condition 96 be amended to provide clarity that the minimum amount of affordable housing to be provided is consistent with the application as submitted. The condition was amended to read as follows:

Condition 96. Affordable Housing

Following the commencement of a relevant BCA Completion Certificate being issued, the development must comply with the following for a period of at least 15 years:

- a) provide at least 20% of apartments (the affordable housing component) as affordable housing.*
- b) the affordable housing component must be managed by a registered community housing provider.*
- c) notice of a change in the registered community housing provider which manages the affordable housing component must be given to the Registrar of Community Housing and the consent authority no later than 3 months after the change.*
- d) the registered community housing provider which manages the affordable housing component must apply the Affordable Housing Guidelines.*

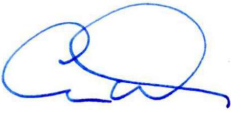

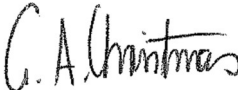
The Development Application was approved subject to the remaining draft conditions in the Council Assessment Report, which were agreed to by the Crown applicant.

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:

- Heritage.
- Size, bulk and scale.
- Privacy.
- Setbacks.
- Walkway locations.
- Overshadowing.
- Tree removal.

The Panel was satisfied that concerns raised by the community had been adequately addressed in the Assessment Report and through the conditions of consent as imposed.

PANEL MEMBERS	
 Christopher Wilson (Chair)	 Juliet Grant
 Grant Christmas	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-400 – SHOALHAVEN – DA2024/1326
2	PROPOSED DEVELOPMENT	Demolition of existing structures, lot consolidation and construction of two (2) x residential flat buildings comprising 60 build-to-rent apartments and 70 car parking spaces
3	STREET ADDRESS	10 Beinda Street BOMADERRY NSW 2541 - Lot 1 DP 25566 8 Beinda Street BOMADERRY NSW 2541 - Lot 2 DP 25566 6 Beinda Street BOMADERRY NSW 2541 - Lot 3 DP 25566 4 Beinda Street BOMADERRY NSW 2541 - Lot 4 DP 25566 2 Beinda Street BOMADERRY NSW 2541 - Lot 5 DP 25566 55 Bolong Road BOMADERRY NSW 2541 - Lot 6 DP 25566 57 Bolong Road BOMADERRY NSW 2541 - Lot 7 DP 25566 53 Bolong Road BOMADERRY NSW 2541 - Lot 1 DP 329959
4	APPLICANT/OWNER	Landcom / Allison M Hadley
5	TYPE OF REGIONAL DEVELOPMENT	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 (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 State Environmental Planning Policy (Transport and Infrastructure) 2021 Shoalhaven Local Environmental Plan 2014 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Shoalhaven Development Control Plan 2014 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: 16 July 2024 Clause 4.6 contravention of development standard (Height of Building) Applicant agreement to amended draft condition 96: 30 July 2024 Written submissions during public exhibition: 2 Total number of unique submissions received by way of objection: 2
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Final briefing to discuss council's recommendation: 30 July 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Chris Wilson (Chair), Juliet Grant, Grant Christmas <u>Council assessment staff</u>: Peter Woodworth, Bruce Gibbs. <u>Applicant representatives</u>: Melanie James (Landcom), Andrew Cooper (Landcom), Ray Fard (Landcom), Michael Rodger (UrbanCo), Peter St Clair (St Clair Architecture)

		<ul style="list-style-type: none">○ <u>DPHl</u>: Amanda Moylan , Tracey Gillett (part only), Rach Harlock, Tim Mahoney (part only)
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report