



Land and Environment Court New South Wales

Medium Neutral Citation:

**Themisto Pty Ltd v Wollongong City Council [2025]
NSWLEC 1793**

Hearing dates:

Conciliation conferences held on 3 June 2025 and 30 July 2025

Date of orders:

11 November 2025

Decision date:

11 November 2025

Jurisdiction:

Class 1

Before:

Kullen AC

Decision:

The Court orders that:

- (1) Pursuant to s 8.15(3) of the *Environmental Planning and Assessment Act 1979* (NSW), the Applicant is to pay the costs of the Respondent that have been thrown away as a result of the amendment of the development application, in the agreed amount of \$7,000, and such amount is to be paid within 28 days of the date of this order.
- (2) The appeal is upheld.
- (3) Development consent is granted to development application No DA-2024/584 as amended, for the demolition of existing structures and construction of five mixed-use buildings comprising of commercial, retail and residential tenancies including 204 residential apartments, three levels of basement car parking and removal of four trees as well as associated landscaping and public domain upgrades on land at 65-67 Burelli Street, 93-95 and 97-103 Church Street and 52 Stewart Street, Wollongong, NSW, 2500, subject to the conditions of consent in Annexure A.

Catchwords:

DEVELOPMENT APPEAL – conciliation conference – agreement between the parties – mixed use development in Wollongong city centre – cl 4.6 variations for building height and separation – orders

Legislation Cited:

Environmental Planning and Assessment Act 1979 (NSW), ss 4.15, 4.16, 4.17, 4.46, 4.47, 8.7, 8.11, 8.15, Sch 1, Div 1, cl 7
Land and Environment Court Act 1979 (NSW), s 34
Local Land Services Act 2013 (NSW), s 600
Water Management Act 2000 (NSW), s 91

Environmental Planning and Assessment Regulation 2021 (NSW), ss 27, 29, 38
State Environmental Planning Policy (Biodiversity and Conservation) 2021, Ch 2
State Environmental Planning Policy (Housing), Ch 4, ss 144, 145, 147, Sch 9
State Environmental Planning Policy (Planning Systems) 2021, s 2.19
State Environmental Planning Policy (Resilience and Hazards) 2021, s 4.6
State Environmental Planning Policy (Sustainable Buildings) 2022
State Environmental Planning Policy (Transport and Infrastructure) 2021, Subdiv 2, s 2.48, ss 2.119, 2.120, 2.122
Wollongong Local Environmental Plan 2009, cll 2.1, 2.2, 2.3, 2.7, 4.3, 4.4, 4.4A, 4.6, 5.10, 5.21, 5.22, 7.1, 7.5, 7.6, 7.13, 7.18, 7.22, 8.1, 8.4, 8.6, Sch 5

Texts Cited:

NSW Department of Planning and Environment, Apartment Design Guide (July 2015)
Wollongong Development Control Plan 2009

Category:

Principal judgment

Parties:

Themisto Pty Ltd (Applicant)
Wollongong City Council (Respondent)

Representation:

Counsel:
M Sonter (Solicitor)(Applicant)
J Reilly (Solicitor) (Respondent)

Solicitors:
Mills Oakley Lawyers (Applicant)
Wollongong City Council (Respondent)

File Number(s):

2024/434568

Publication restriction:

Nil

JUDGMENT

- 1 **COMMISSIONER:** This is an appeal pursuant to ss 8.7 and 8.11 of the *Environmental Planning and Assessment Act 1979* (NSW) (EPA Act) against the deemed refusal by Wollongong City Council of development application DA-2024/584 (the DA) for the demolition of all existing structures and the construction of a mixed use development (shop top housing development) across five buildings housing retail/commercial spaces, 202 residential apartments and basement car parking on land legally described as Lot 4 DP 16989, Lot 5 DP 16989, Lot 100 DP 861011, Lot 200 DP 832883, Lot 101 DP 631056, Lot 102 DP 825936 and Lot 1 DP 781950, and known as 65-67 Burelli Street, 93-95 and 97-103 Church Street and 52 Stewart Street, Wollongong, NSW, 2500 (the site).
- 2 The DA was lodged on 9 August 2024. The Applicant lodged a Class 1 Application with the Court on 22 November 2024. The Respondent's Statement of Facts and Contentions was filed on 22 January 2025.
- 3 The Court arranged a conciliation conference under s 34(1) of the *Land and Environment Court Act 1979* (NSW) (LEC Act) between the parties, which was held on 3 June 2025. I presided over the conciliation conference, which commenced with a site inspection. One submitter attended the on-site view and made a submission to the Court.
- 4 The s 34 conciliation conference was adjourned to 27 June 2025 to allow time for amended plans to be prepared by the Applicant and assessed by the Respondent, and subsequently further adjourned a number of times, to allow the parties time to consider and review the revised plans and to finalise the s 34 agreement and conditions of consent based on an amended development application (the amended DA).
- 5 After the conciliation conferences, the parties reached an agreement as to the terms of a decision in the proceedings that would be acceptable to the parties.
- 6 The parties advise that the Applicant provided to the Respondent amended plans and material that include a number of changes in the amended DA, the main changes being as follows:
 - (1) Increasing the levels in the laneway from RL 6.10 to RL 7.14 - 7.66;
 - (2) Increasing the levels of Building B, Building D, Building E and the communal open space to match the levels in the laneway;
 - (3) Relocating the vehicle turn table and bin holding area to ground level;
 - (4) Building E - Atypical E01-2B1-01 - extending the internal area in the study;
 - (5) Providing for internal access from Building D to the communal open space;
 - (6) Providing for internal access between the commercial spaces in Buildings B and

- C to the service and commercial parking areas;
- (7) Activating the street frontage for Building A to include additional glass windows;
 - (8) Reorientating the fan room and lift in the residential lobby in Building A;
 - (9) Servicing plan has been provided for residential waste bin and retail waste bin; and
 - (10) The number of residential units has been increased from 202 to 204.
- 7 Pursuant to cl 4.6 of the Wollongong Local Environmental Plan 2009 (the LEP), updated variation reports prepared by Architectus dated 24 June 2025 for requests to vary development standards were submitted by the Applicant to support the following variations in the amended DA:
- (1) The proposed cl 4.6 variation of the Height of Buildings (HoB) standard in cl 4.3 of the LEP (cl 4.6 HoB written request); and
 - (2) The proposed cl 4.6 variation of the Building Separation standard in cl 8.6 of the LEP (amended cl 4.6 BS written request).
- 8 A signed s 34 agreement with Annexure A and the amended plans were filed with the Court on 18 September 2025. The s 34 agreement is supported by an agreed statement of jurisdictional prerequisites.
- 9 Under s 34(3) of the LEC Act, I must dispose of the proceedings in accordance with the parties' decision if the parties' decision is a decision that the Court could have made in the proper exercise of its functions. In making the orders to give effect to the agreement between the parties, I was not required to, and have not, made any merit assessment of the issues that were originally in dispute between the parties.
- 10 The parties' decision involves the Court exercising the function under s 4.16 of the EPA Act to grant consent to the DA.
- 11 There are jurisdictional prerequisites that must be satisfied before this function can be exercised. The parties have identified and explained how the jurisdictional prerequisites of relevance have been satisfied in a written submission accompanying the s 34 agreement, and those requirements have been satisfied as follows.

Environmental Planning and Assessment Act 1979

Owner's consent

- 12 The parties advise that owner's consent has been provided for the properties at 65-67 Burelli Street, 93-95 Church Street, 97-103 Church Street and 52 Stewart Street, Wollongong.

Community Participation (Sch 1, Div 2, cl 7(1) of the EPA Act)

- 13 The DA was notified between 19 August 2024 and 18 September 2024. Three submissions were received in response to the notification of the DA.
- 14 The amended DA was publicly renotified between 29 July 2025 and 12 August 2025. No submissions were received in response to the renotification.
- 15 The parties advise that the submissions of objectors have been taken into account by the parties in the design of the proposed development in the amended DA.

Conditions

- 16 The s 34 agreement includes the imposition of conditions which are imposed under s 4.17(1) of the EPA Act.

Integrated Development

- 17 The parties advise that the proposed development is integrated development under s 4.46 of the EPA Act as it requires an authorisation under s 91(3) of the *Water Management Act 2000* (NSW) (the Water Management Act) which provides for “water use approval, water management work approval or activity approval under Part 3 of Chapter 3”, which applies as the proposed basement excavation levels will be below the depth of the standing groundwater table.

Water Management Act 2000 (NSW)

- 18 On 29 November 2024, Water NSW issued its General Terms of Approval (GTAs) pursuant to s 91 of the Water Management Act in relation to the original form of the proposed development. The parties advise that in accordance with s 4.47 of the EPA Act, the agreed conditions of consent include the requirement to comply with the recommendations in Water NSW’s GTAs (at Conditions 2 and 3).

Wollongong Local Environmental Plan 2009

- 19 The LEP is the relevant local environmental planning instrument that applies to the site. Under cl 2.1 of the LEP, the site is zoned E2 Commercial Centre. The proposed development is permissible with consent in the E2 zone pursuant to cll 2.2 and 2.3 of the LEP. I am satisfied that the proposed development is consistent with the objectives for development within the zone in which the development is proposed to be carried out.
- 20 Clause 2.7 of the LEP relates to demolition. The amended DA seeks consent for demolition of existing structures on the site.

Clause 4.3 – Height of Buildings

- 21 Clause 4.3 of the LEP relates to HoB development standards. The parties advise that the site is subject to varying building height limits under cl 4.3 of the LEP, and provided the following summary of the proposed development's compliance with the HoB development standards in the LEP:
- (1) Part of Building A will have a maximum height of 47.7 metres (m) and complies with a maximum height of 48m;
 - (2) Part of Building A will have a maximum height of 23.8m and complies with the maximum height of 24m;
 - (3) Building B will have a maximum height of 23.7m and complies with the maximum height of 24m;
 - (4) Building C will have a maximum height of 23.9m and complies with the maximum height of 24m;
 - (5) Building D will have a maximum height of 23.8m and complies with the maximum height of 24m; and
 - (6) Building E will have a maximum height of 25.57m and does not comply with the maximum height of 24m.
- 22 As stated in par [7] above, a clause 4.6 variation request has been provided in relation to the proposed height of Building E and is discussed below at pars [26]-[32].
- 23 Clause 4.4 of the LEP refers to the floor space ratio (FSR) for the site, which is identified on the FSR map in the LEP as a maximum of 1.5:1. However, the parties advise that as the site is zoned E2 under the LEP and located in within the Wollongong City Centre, cl 4.4A of the LEP applies to the site.
- 24 In particular, the parties confirm that cl 4.4A(4) applies to the proposed development which is on land zoned E2 and is proposed to be used for shop top housing development comprising of commercial, retail and residential tenancies. Clause 4.4A(4) of the LEP provides a formula to calculate the maximum FSR for a building on land within Zone E1 Local Centre, Zone E2 Commercial Centre, Zone E3 Productivity Support or Zone MU1 Mixed Use, that is to be used for a mixture of residential purposes and other purposes.
- 25 The parties submit that the amended Statement of Environmental Effects submitted with the amended DA concludes the proposed development is subject to a maximum FSR of 3.76:1. The proposed development has an FSR of 2.899:1. Accordingly, the parties advise that the amended DA complies with cl 4.4A of the LEP.

Clause 4.6 Variation – Height of Buildings

- 26 Clause 4.6 of the LEP relates to exceptions to development standards and provides the consent authority must be satisfied that the Applicant has demonstrated compliance with the development standard is unreasonable or unnecessary in the circumstances

and there are sufficient environmental planning grounds to justify the contravention of the development standard.

27 As noted at [7] above, the Applicant has submitted a cl 4.6 HoB written request prepared by Architectus dated 24 June 2025 to vary the application of cl 4.3 of the LEP in relation the non-compliant height of Building E.

28 The parties advise that:

- (1) Building E has a maximum height of 25.574m (RL32.4m) to the highest point of the sawtooth roof form, and 25.402m (RL32.8m) to the lift overrun, from existing ground level;
- (2) This represents a variation to the 24m HoB development standard by 1.402m (5.84%) to the top of the primary roof form, and 1.574m (6.56%) to the top of lift overrun, from existing ground level;
- (3) The proposed variation is attributed to a requirement to increase site levels along the eastern edge of the site, within the proposed shared zone, to facilitate a future through site connection between Burelli Street and Stewart Street. This raising of site levels lifts Building E and results in a minor exceedance to the height of building control to the southern portion of the roof form for Building E;
- (4) The proposed variation will not result in any unreasonable amenity outcomes relating to built form or scale, views, solar access, privacy or visual impacts to surrounding properties or within the locality; and
- (5) The built form, bulk and scale is considered suitable for the site and the proposal is otherwise consistent with the planning framework and in accordance with the objectives of the HoB development standard and the E2 Commercial Centre zone, and will deliver a new, high-quality development consistent with the zoning intent of the site.

29 I am satisfied that the Applicant's cl 4.6 HoB written request is well founded and that the variation to the maximum HoB development standard is acceptable.

30 I consider that compliance with the HoB development standard is unreasonable or unnecessary, as required under cl 4.6(3)(a) of the LEP because the proposed development achieves the objectives of the HoB development standard, notwithstanding the HoB exceedance for the reasons provided within the Applicant's cl 4.6 HoB written request, which I adopt;

31 I am also satisfied that there are sufficient environmental planning grounds to justify contravening the HoB development standard, as required under cl 4.6(3)(b) of the LEP, for the following reasons as stated in the cl 4.6 HoB written request:

- (1) The proposed variation to Building E will facilitate the delivery of the shared zone at the site, which subject to the development of the adjoining property, will enable a future mid-block through site connection between Stewart Street and Burelli Street;
- (2) The proposed variation to Building E does not reflect the maximum building

- height permitted and proposed across the site;
- (3) The proposed sawtooth roof profile reduces the volumetric extent of the variation, compared to a flat roof form;
 - (4) The proposed variation is attributed to the increase in site levels within the shared zone only and does not result in any additional floorspace;
 - (5) The proposed variation does not result in any view loss, nor amenity impacts to surrounding properties; and
 - (6) The proposed development will not give rise to adverse overshadowing of neighbouring or nearby properties or MacCabe Park.

32 Approval of the proposed development will be in the public interest for the reasons provided above (at par [31(1)]-[31(1)]), and because the proposed development is consistent with the objectives for the HoB development standard and for development within the E2 Commercial Centre zoning of the subject site for the reasons provided within the Applicant's cl 4.6 HoB written request, which I also adopt.

Clause 4.6 Variation – Building Separation

33 As noted above at [7], the Applicant has also submitted a cl 4.6 variation request prepared by Architectus dated 24 June 2025 to vary cl 8.6 relating to building separation within Zone E2 Commercial Centre (cl 8.6 of the LEP is discussed at pars [58] – [60] below). A summary table of the non-compliance for Buildings A to E is provided in Section 3 'Extent of Variation to the Development Standard' in the amended cl 4.6 BS written request.

34 The parties advise that:

- (1) They agree that there are inconsistencies between cl 8.6 of the LEP and the NSW Apartment Design Guide (ADG), and the building separation proposed is generally compliant with the building separation controls contained in Part 3F of the ADG;
- (2) Compliance with cl 8.6 of the LEP could be achieved by merging the proposed towers into fewer, larger towers. However, breaking the built form into more slender towers is considered by the parties to be a superior development outcome, both in terms of visual appearance and residential amenity;
- (3) The proposed built form complies with the provisions of Chapter D13 Section 6.12 and 6.13 of the Wollongong Development Control Plan 2009 (the DCP) that uphold visual and acoustic privacy;
- (4) The proposed development complies with the solar access objectives of the DCP; and
- (5) The Court can be satisfied that the Applicant has demonstrated that compliance with the development standard is unreasonable or unnecessary in the circumstances and there are sufficient environmental planning grounds to justify

the contravention of cl 8.6 building separation in the LEP.

- 35 I am satisfied that the Applicant's amended cl 4.6 BS written request is well founded and that the variation to the building separation development standard is acceptable.
- 36 I consider that compliance with the building separation development standard is unreasonable or unnecessary, as required under cl 4.6(3)(a) of the LEP because the proposed development achieves the objectives of the building separation development standard, notwithstanding non-compliance with the building separation requirements in cl 8.6 of the LEP for the reasons provided within the Applicant's amended cl 4.6 BS written request, which I adopt;
- 37 I am also satisfied that there are sufficient environmental planning grounds to justify contravening the building separation development standard, as required under cl 4.6(3)(b) of LEP, for the following reasons as stated in the amended cl 4.6 BS written request:
- (1) The development will not give rise to adverse overshadowing of neighbouring or nearby properties or MacCabe Park;
 - (2) The provision of five separate buildings will allow more opportunities for residential units facing north, east and west that could not be achieved with residential buildings with inefficient floorplates; and
 - (3) The proposed development complies with the ADG which is a more contemporary and widely-held industry standard, adopted in the DCP.
- 38 Approval of the proposed development will be in the public interest for the reasons provided above (at [31(1)]-[31(1)]), and because the proposed development is consistent with the objectives for the building separation development standard and for development within the E2 Commercial Centre zoning of the subject site for the reasons provided within the Applicant's amended cl 4.6 BS written request, which I also adopt.

Clause 5.10 – Heritage Conservation

- 39 Clause 5.10 of the LEP relates to the heritage conservation. The parties advise that:
- (1) The site is not identified as being mapped within the heritage conservation area or listed in Sch 5 of the LEP;
 - (2) The site is within close proximity of heritage item No 6284 (the Row of Hills Figs (Trees) listed in the LEP and located within the southern Burelli Street road reserve);
 - (3) The Applicant does not propose to remove any heritage listed fig trees. Some minor pruning is required, as detailed in the Arboricultural Impact Assessment including Tree Protection Plan and Tree Management Plan prepared by

- Advanced Treescape Consulting dated 18 April 2024 and Addendum to the Arboricultural Impact Assessment by Advanced Treescape Consulting dated 24 April 2025 which confirms that the Trees is capable of being retained; and
- (4) The Applicant has prepared a number of documents relating to any potential over-shadowing of the Wollongong War Memorial, historical archaeological assessment and aboriginal cultural heritage to comply with the requirements of cl 5.10 of the LEP.

Clause 5.21 – Flood Planning and Clause 5.22 – Special Flood Considerations

- 40 Clause 5.21 of the LEP relates to flood planning. The parties advise that the site is affected by flooding as a result of overland flow. Clause 5.22 relates to special flood considerations and applies to the site. The parties advise that the Applicant has provided the following documents in response to the requirements of cll 5.21 and 5.22 of the LEP:
- (1) Flood Impact and Risk Management Report prepared by Integrated Group Services dated 24 April 2024;
 - (2) Amended Civil Stormwater Report prepared by TTW Engineers dated 7 July 2025;
 - (3) Civil Plans prepared by TTW Engineers dated April 2024;
 - (4) Amended Architectural Plans prepared by Architectus dated 27 August 2025; and
 - (5) Page 31 of the Amended Statement of Environmental Effects prepared by Architectus dated 1 July 2025.
- 41 The parties advise that the Court can be satisfied the proposed development is appropriately designed to meet all flooding and risk management requirements stipulated within cll 5.21 and 5.22 of the LEP, including compliance with the flood planning level and to mitigate flood risk to the site, as the proposed development:
- (1) Is compatible with the flood function and behaviour on the land;
 - (2) Will not increase flood risk or affect flood behaviour;
 - (3) Will not affect the safe occupation and efficient evacuation of people in the event of a flood;
 - (4) Will not adversely affect the environment in the event of a flood; and
 - (5) Incorporates appropriate measures to manage risk to life in the event of a flood.

Clause 7.1 – Public Utility Infrastructure

42 Clause 7.1 of the LEP relates to public utility infrastructure. The parties advise that:

- (1) The site is located within an urban area and the development will be connected to existing public utility infrastructure for water, power, sewer and telecommunications;
- (2) Based on services investigations, it is understood there is existing capacity within respective networks to accommodate the proposed development; and
- (3) The parties agree that adequate arrangements have been made to make available the supply of essential services listed in cl 7.1(4) of the LEP.

Clause 7.5 – Acid Sulfate Soils

43 Clause 7.5 of the LEP relates to Acid Sulfate Soils. The site is mapped as a Class 5 Acid Sulfate Soils area in the LEP and is within 500m of land mapped as class 3. The proposed development seeks consent for three levels of basement parking, commercial and retail use, and pursuant to cl 7.5(3) of the LEP, development consent must not be granted under this clause for the carrying out of works unless an acid sulfate soils management plan has been prepared for the proposed works in accordance with the Acid Sulfate Soils Manual referred to in cl 7.5(4) of the LEP.

44 The parties advise that the Court can be satisfied that the proposed development complies with cl 7.5 of the LEP based on the following documentation submitted by the Applicant:

- (1) The Acid Sulfate Soils Management Plan prepared by Douglas Partners dated 12 August 2024;
- (2) Page 31 - Amended Statement of Environmental Effects prepared by Architectus dated 1 July 2025;
- (3) Civil Plans prepared by TTW Engineers dated April 2024; and
- (4) Amended Architectural Plans prepared by Architectus dated 27 August 2025.

Clause 7.6 – Earthworks

45 Clause 7.6 of the LEP refers to earthworks. The amended DA seeks consent for earthworks including basement excavation. The parties advise that they have considered the matters in cl 7.6(3) of the LEP as outlined below and that the Court can be satisfied that all reasonable measures have been taken to avoid, minimise or mitigate any adverse impacts of the proposed development and complies with cl 7.6 of the LEP:

- (1) The proposed development will not result in the disruption or detrimental effect on existing drainage patterns and soil stability as all stormwater will be drained to existing Council infrastructure (refer Civil Plans prepared by TTW Engineers

- dated April 2024);
- (2) The earthworks will not have a detrimental impact on the future use or redevelopment of the land, which is approved as a shop top housing development with existing excavation;
 - (3) The fill to be excavated is not expected to contain contaminated material. Any fill to be imported onto the site will be clean fill;
 - (4) The excavation will be managed in accordance with the requirements outlined in the Report on Preliminary Geotechnical Investigation prepared by Douglas Partners dated 19 April 2024 and conditions of consent. Accordingly, the development is not expected to result in any significant adverse impacts on the amenity or structural integrity of adjoining properties;
 - (5) Excavated material will be disposed of at an appropriate off-site facility or reused on site where possible;
 - (6) The site is not identified as a heritage item and there are no known Aboriginal objects at the site. Therefore, the likelihood of relics on the site is considered to be low. In any case, the discovery of relics on site will be treated with an unexpected finds protocol provided in the conditions of consent (see also Aboriginal Cultural Heritage Due Diligence Advice prepared by Austral Archaeology dated 30 June 2025 and Preliminary Historical Archaeological Assessment prepared by Austral Archaeology dated 1 July 2025; and
 - (7) The development and stormwater management system are designed to capture and treat water via a filtration system before discharging into Council's existing stormwater drainage infrastructure (refer to Amended Civil Plans prepared by TTW dated April 2024).

Clause 7.13 – Certain land within employment or mixed use zones

- 46 Clause 7.13 of the LEP relates to certain land within employment or mixed use zones and applies to the site as it is zoned E2 Commercial Centre zone under the LEP.
- 47 Clause 7.13(3) provides the consent authority must be satisfied that 'the ground floor of the building –
- (a) will not be used for the purpose of residential accommodation, and
 - (b) will have at least one entrance and at least one other door or window on the front of the building facing the street other than a service lane.
- 48 The parties advise that the amended DA seeks consent for shop top housing and does not include any residential accommodation on the ground floor. The proposed development includes commercial tenancies at the ground floor with active frontages containing multiple entries on all frontages.
- 49 The parties submit that the proposed development complies with cl 7.13 of the LEP.

Clause 7.18 – Design Excellence in Wollongong city centre and at key sites

- 50 Clause 7.18 of the LEP relates to Design Excellence in Wollongong city centre and at key sites. The parties advise that this clause applies to the amended DA as the proposed development is for the construction of a new building on a site located within the Wollongong city centre.
- 51 The parties submit that the proposed development exhibits design excellence and complies with cl 7.18 of the LEP, with the following documents being submitted by the Applicant in support of the amended DA:
- (1) An assessment of cl 7.18 is provided in the Amended Statement of Environmental Effects prepared by Architectus dated 1 July 2025;
 - (2) Amended Design Report prepared by Architectus dated 24 June 2025;
 - (3) Amended Architectural Plans prepared by Architectus dated 27 August 2025; and
 - (4) Amended landscape plan prepared by Ocolous Landscape Architects dated 24 June 2025.

Clause 7.22 – Development in local centres

- 52 Clause 7.22 of the LEP relates to Development in local centres and applies to the site as the land is in Zone E2 Commercial Centre. Clause 7.22(3) of the LEP provides that the consent authority is to consider:
- (a) the impact of the development on—
 - (i) the amenity of surrounding residential areas, and
 - (ii) the desired future character of the local centre, and
 - (b) whether the development is consistent with the hierarchy of centres.
- 53 The parties advise that the proposed development will not result in any adverse amenity impacts to surrounding residential areas, will provide for permitted and appropriate land uses and is an appropriate form in the context of the Wollongong City Centre.

Clause 8.1 – Objectives for development in Wollongong city centre

- 54 Clause 8.1 of the LEP relates to objectives for development in Wollongong city centre and applies to the proposed development as the site is located in the Wollongong city centre.
- 55 The parties advise that the proposed development is consistent with the objectives of cl 8.1 of the LEP as it will encourage revitalisation of land in the Wollongong city centre and directly promotes residential and employment opportunities; will deliver development of building design excellence as appropriate to a regional city; and promotes additional housing supply.

Clause 8.4 – Minimum building street frontage

- 56 Clause 8.4 of the LEP relates to Minimum building street frontage in Wollongong city centre.
- 57 The parties advise that the proposed development provides a frontage of 30.5m on Burelli Street, 76.7m on Church Street and 74.2m on Stewart Street and complies with cl 8.4 of the LEP.

Clause 8.6 – Building separation – amended Clause 4.6 BS written request

- 58 Clause 8.6 of the LEP relates to Building separation in Wollongong city centre and provides at cl 8.6(2) and 8.6(3) that:
- (2) Buildings on land within Zone E2 Commercial Centre or MU1 Mixed Use must be erected so that—
 - (a) there is no separation between neighbouring buildings up to the street frontage height of the relevant building or up to 24 metres above ground level whichever is the lesser, and
 - (b) there is a distance of at least 12 metres from any other building above the street frontage height and less than 45 metres above ground level, and
 - (c) there is a distance of at least 28 metres from any other building at 45 metres or higher above ground level.
 - (3) Despite subclause (2), if a building contains a dwelling, all habitable parts of the dwelling including any balcony must not be less than—
 - (a) 20 metres from any habitable part of a dwelling contained in any other building, and
 - (b) 16 metres from any other part of any other building.
- 59 Clause 8.6 of the LEP applies to the proposed development as the site is zoned E2 Commercial Centre. The parties advise that the proposed development does not comply with cl 8.6 as the separation distance between each building (Building A – Building E) is less than 20m. The Applicant has provided a written request to vary this development standard pursuant to cl 4.6 of the LEP (as previously stated in par [7] above).
- 60 The amended cl 4.6 BS written request to vary the separation distance between each building is discussed at [33] – [38] above, where it is stated that the Court is satisfied with the Applicant's cl 4.6 variation request to vary cl 8.6 of the LEP.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

- 61 Chapter 2 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (the Conservation SEPP) aims to protect the biodiversity values of trees and other vegetation in non-rural areas of the State; and to preserve the amenity of non-rural areas of the State through the preservation of trees and other vegetation.
- 62 The amended DA proposes removal of four trees to facilitate the proposed development under s 60O(a)(i) of the *Local Land Services Act 2013* (NSW). The parties advise that the Applicant has provided an Arboricultural Impact Assessment including Tree Protection Plan and Tree Management Plan which concludes the four trees

recommended for removal are identified as having a low retention value, and that the removed trees will be offset by the proposed planting of replacement trees as detailed on the amended Landscape Plans.

63 The matters arising under Ch 2 of the Conservation SEPP do not apply to the proposed development, and as such, is not a jurisdictional requirement for the Court to consider. This is because the Applicant has not applied to remove the trees under permit but rather seeks development consent to remove the trees under the EPA Act.

State Environmental Planning Policy (Housing) 2021

64 Chapter 4 – Design of Residential Development of the State Environmental Planning Policy (Housing) 2021 (the Housing SEPP) applies to the proposed development, as the parties advise that the amended DA seeks consent for shop top housing, which is included at s 144 (2)(b) of the Housing SEPP.

65 The Respondent operates a Design Review Panel and therefore a referral of the DA to the Design Review Panel is required under s 145(2) of the Housing SEPP.

66 The parties advise that on 13 August 2024, the DA was referred to the Wollongong Design Review Panel. On 11 September 2024, the Wollongong Design Review Panel held a meeting and prepared meeting minutes and recommendations in response to the proposed development. Accordingly, the Applicant submits that the Court can be satisfied the proposed development complies with s 145(2) of the Housing SEPP.

67 Section 147 of the Housing SEPP requires the consent authority to consider the matters listed at s 147(1)(a) to (c) of the Housing SEPP. The parties advise that to comply with s 147 of the Housing SEPP, the Applicant has provided an Amended Design Report dated 24 June 2025 and an Amended Statement of Environmental Effects prepared by Architectus dated 1 July 2025 detailing compliance with Sch 9 of the Housing SEPP, the ADG and any advice received from the Design Review Panel.

68 Section 29(1) of the Environmental Planning and Assessment Regulation 2021 (NSW) (EPA Regulation) also provides that if a development application relates to a residential apartment, the development must be accompanied by a statement by a qualified designer and applies to the amended DA which seeks consent for 204 residential apartments. Section 29(2)(a) to (b)(ii) of the EPA Regulation lists the requirements to be addressed in the statement by a qualified designer. The parties advise that the Applicant has provided an Amended Design Report to comply with this requirement.

69 Section 29(3) of the EPA Regulation requires that ‘if the development application is accompanied by a BASIX certificate for a building, the design principles for residential apartment development do not need to be addressed to the extent’ of the matters listed at s 29(3)(a) to (c) of the EPA Regulation. The parties advise that the Applicant has prepared an amended BASIX Certificate (refer to par [73] below). Accordingly, the Design Verification Statement is not required to address s 29(3) of the EPA Regulation

State Environmental Planning Policy (Resilience and Hazards) 2021

- 70 Section 4.6 of the State Environmental Planning Policy (Resilience and Hazards) 2021 (Resilience SEPP) requires that a consent authority must not grant consent to any development on the land unless it has considered whether a site is contaminated or potentially contaminated land, and if it is, that it is satisfied that the land is suitable (or will be suitable after undergoing remediation) for the proposed use.
- 71 The parties advise that the site has been used for commercial and residential purposes and that:
- (1) The Applicant has provided an Amended Detailed Site Investigation prepared by Douglas Partners dated 15 May 2024 which concludes that the site can be made suitable subject to the recommendations listed in the report, including the preparation of an acid sulfate soil management plan, clearing inspections, an unexpected finds protocol, clearance inspections and other inspections, soil sampling and analysis to be undertaken post-demolition;
 - (2) Following the recommendations in the Amended Detailed Site Investigation, the Applicant has provided an acid sulfate soil management plan prepared by Douglas dated 12 August 2024; and
 - (3) The Court can be satisfied that the site can be made suitable for the proposed development and the amended DA satisfies s 4.6 of the Resilience SEPP.
- 72 The Court is satisfied for the purposes of s 4.6 of the Resilience SEPP that the site is suitable for the proposed development.

State Environmental Planning Policy (Sustainable Buildings) 2022

- 73 State Environmental Planning Policy (Sustainable Buildings) 2022 (the Sustainability Buildings SEPP) applies to the proposed development. Section 27 of the EPA Regulation provides that a BASIX certificate must be issued for the proposed development as it proposes to construct 204 dwellings. The proposed development is BASIX development, as defined in the Dictionary of the EPA Regulation. The parties advise that:
- (1) The DA was accompanied by a NatHERS and BASIX Assessment and Certificate prepared by Efficient Living dated 25 July 2024;
 - (2) The Applicant has prepared an amended BASIX Certificate prepared by Efficient Living to accompany the amended DA; and
 - (3) The Court can be satisfied the proposed development complies with the Sustainable Buildings SEPP.

State Environmental Planning Policy (Planning Systems) 2021

- 74 The parties advise that pursuant to s 2.19(1) the amended DA is development specified in Schedule 6 and is declared to be 'Regionally significant development' as the development has an estimated cost of more than \$30 million. The proposed development has an estimate (above \$30 million) of approximately \$156,658,000.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Subdivision 2 - Development likely to affect an electricity transmissions or distribution network

- 75 Pursuant to s 2.48(2) of State Environmental Planning Policy (Transport and Infrastructure) 2021 (the Transport SEPP), before determining a development application, the consent authority must, under s 2.48(2)(a), give written notice to the electricity supply authority and under s 2.48(2)(b), take into consideration any response to that notice. The parties advise that s 2.48(2) applies as the DA seeks consent for development to be carried out within 5m of an exposed overhead electricity power line, and that the DA was referred to Endeavour Energy, requesting comments about potential safety risks. On 14 August 2024, Endeavour Energy made no objection subject to standard conditions relating to safe work practices in proximity to electricity assets. The parties advise that these conditions have been included in the conditions of consent.

Section 2.119 – Development with frontage to classified road

- 76 Section 2.119(2) of the Transport SEPP provides that the consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied of the matters listed at s 2.119(2)(a) to (c). The site is not located on or near a classified road. Accordingly, s 2.119 does not apply to the proposed development.

Section 2.120 – Impact of Road Noise or vibration on non-road development

- 77 Section 2.120(3) of the Transport SEPP provides the consent authority must grant consent unless it is satisfied that the appropriate measures will be taken to ensure compliance with s 2.120(3)(a) and (b).
- 78 The parties advise that there are no surrounding roads with recorded traffic volumes exceeding 20,000 movements per day to the site and accordingly, s 2.120 does not apply to the proposed development

Section 2.122 – Traffic-generating development

- 79 Section 2.122 of the Transport SEPP applies to the proposed development as it seeks consent for a "car park (whether or not ancillary to other development)" noted in Sch 3, Column 1 which has "200 or more car parking spaces" noted in Sch 3 Column 2, being 260 car parking spaces. Accordingly, the proposed development is captured under Sch

3, Column 2 in s 2.122(1).

80 Section 2.122(4) of the Transport SEPP provides the consent authority must give written notice to Transport for NSW (TfNSW) and take into consideration the matters listed at s 2.122(4)(b). Pursuant to s 2.122(4)(a), the Respondent referred the DA to TfNSW on 12 September 2024.

81 The parties advise that on 18 September 2024, TfNSW confirmed it has no objections to the DA in relation to the any potential adverse impacts on the adjoining bus stop in Burelli Street, subject to conditions being imposed on the proposed development (Conditions 59 and 60). A copy of TfNSW's correspondence is provided at Appendix A of the Traffic Statement prepared by JMT Consulting dated 27 June 2025.

Wollongong Development Control Plan 2009

82 The parties advised that the proposed development was assessed against specific provisions in the DCP as follows:

- (1) The proposed built form complies with Chapter D13, Sections 6.12 and 6.13 of the DCP that uphold visual and acoustic privacy;
- (2) The proposed development complies with the solar access objectives contained at Chapter D13, Section 2.10 of the DCP; and
- (3) Chapter E13 of the DCP provides the flood planning level for overland flow is 1% Annual Exceedance Probability (AEP) plus 0.3m. The proposed development adopts a 300mm freeboard to meet this requirement.

Remaining matters in section 4.15(1)

83 The parties agree that the Amended DA can be approved taking into consideration the matters in s 4.15(1)(c) – (e) of the EPA Act.

Conclusion

84 Having considered the advice of the parties provided above at [12]-[83], I am satisfied that:

- (1) The Applicant's amended DA can be approved having regard to the matters in s 4.15(1)(b) – (e) of the EPA Act;
- (2) The jurisdictional prerequisites on which I must be satisfied before I can exercise the power under s 4.16 of the EPA Act have been satisfied; and
- (3) Approval of the proposed development is in the public interest.

85 Further, I am satisfied that the parties' decision is one that the Court could have made in the proper exercise of its functions, as required by s 34(3) of the LEC Act.

86 As the parties' decision is a decision that the Court could have made in the proper exercise of its functions, I am required under s 34(3) of the LEC Act to dispose of the

proceedings in accordance with the parties' decision.

The Court notes:

- (1) That Wollongong City Council, as the relevant consent authority, pursuant to s 38(1) of the Environmental Planning and Assessment Regulation 2021, has approved the application for an amendment to development application DA-2024/584 made on 18 September 2025 to rely on the documents specified below:

Amended Architectural Plans				
Plan name	Drawing ref	Revision	Date	Prepared by
Cover Sheet	AR-DA0000	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Basix Design Specification	AR-DA0001	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Site Context Plan	AR-DA0002	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Environmental Analysis	AR-DA0003	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Lot Boundary Plan	AR-DA0004	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Site Survey	AR-DA0005	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Demolition - Plan	AR-DA0100	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Demolition - Street Elevation	AR-DA0101	Rev.06	27 August 2025	Architectus Australia Pty Ltd

GFA - Schedule	AR-DA0200	Rev.06	27 August 2025	Architectus Australia Pty Ltd
GFA - Lower Ground - Level 4	AR-DA0201	Rev.06	27 August 2025	Architectus Australia Pty Ltd
GFA - Level 5 - 13	AR-DA0202	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Proposed Site Plan	AR-DA1000	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Site Setback	AR-DA1001	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Site LEP Building Separation	AR-DA1002	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Site Awnings	AR-DA1003	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Basement 03 Plan	AR-DA1004	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Basement 02 Plan	AR-DA1005	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Ground & Basement 01 Plan	AR-DA1006	Rev.06	27 August 2025	Architectus Australia Pty Ltd

Ground Floor Plan	AR-DA1007	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Level 1 Plan	AR-DA1008	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Level 2 Plan	AR-DA1009	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Level 3 Plan	AR-DA1010	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Level 4 Plan	AR-DA1011	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Level 5 Plan	AR-DA1012	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Level 6 Plan	AR-DA1013	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Building A Level 7,8 & 11,12 Plan	AR-DA1015	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Roof Plan	AR-DA1016	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Burelli Street Elevation	AR-DA2000	Rev.06	27 August 2025	Architectus Australia Pty Ltd

Church St Elevation	AR-DA2001	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Stewart Street Elevation	AR-DA2002	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Stewart Lane Elevation	AR-DA2003	Rev.06	27 August 2025	Architectus Australia Pty Ltd
EW Building B, E Overall Section Updates	AR-DA2501	Rev.06	27 August 2025	Architectus Australia Pty Ltd
NS Building A, D Overall Section Updates	AR-DA2502	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Adaptable Units - Building A & B	AR-DA4016	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Adaptable Units - Building C & D	AR-DA4017	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Adaptable Units - Building E	AR-DA4019	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Livable Units	AR-DA4020	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Livable Units	AR-DA4021	Rev.06	27 August 2025	Architectus Australia Pty Ltd

Shadow Analysis - June - 7am - 4pm	AR-DA9600	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Shadow Analysis - April - 7am - 4pm	AR-DA9601	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Shadow Analysis – November – 7am – 4pm	AR-DA9602	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Lower Ground Level Plan Cleaner's Movement Path	-	-	27 August 2025	Architectus Australia Pty Ltd
Ground Level Plan Cleaner's Movement Path	-	-	27 August 2025	Architectus Australia Pty Ltd
Lower Ground Level Plan Waste Path to Loading	-	-	27 August 2025	Architectus Australia Pty Ltd
Ground Level Plan Waste Path to Loading	-	-	27 August 2025	Architectus Australia Pty Ltd
Building A Façade – DA VS S34	AR-SK1	Rev.03	27 August 2025	Architectus Australia Pty Ltd
Building D Façade – DA VS S34	AR-SK2	Rev.03	27 August 2025	Architectus Australia Pty Ltd
Building A Façade – Aboriginal Artwork DA VS S34	AR-SK3	Rev.03	27 August 2025	Architectus Australia Pty Ltd

Feasibility Study – B01 & GF	AR-SK4	Rev.03	27 August 2025	Architectus Australia Pty Ltd
Feasibility Study – Typical & Top	AR-SK5	Rev.03	27 August 2025	Architectus Australia Pty Ltd
Feasibility Study – Roof	AR-SK6	Rev.03	27 August 2025	Architectus Australia Pty Ltd
COS Solar – June 21st	AR-SK7	Rev.03	27 August 2025	Architectus Australia Pty Ltd
Terrace Section – Building A	AR-SK8	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Terrace Section – Building B	AR-SK9	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Terrace Section – Building C	AR-SK10	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Terrace Section – Building D	AR-SK11	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Terrace Section – Building D	AR-SK12	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Terrace Section – Building E	AR-SK13	Rev.06	27 August 2025	Architectus Australia Pty Ltd

E00-2B3-04 Privacy Section	AR-SK14	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Laneway Detailed Sections	AR-SK15	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Laneway Detailed Plan	AR-SK16	Rev.06	27 August 2025	Architectus Australia Pty Ltd
Section for Cross Vent Strategy	AR-SK9	Rev.04	22 July 2025	Architectus Australia Pty Ltd
Plan name	Drawing Ref	Revision	Date	Prepared by
Cover Sheet	-	B	24 June 2025	Oculus Landscape Architects
1.0 Design Statement	1.0	B	24 June 2025	Oculus Landscape Architects
1.1 Site Strategy Level & Accessibility – Courtyard	1.1	B	24 June 2025	Oculus Landscape Architects
1.2 Site Strategy Level & Accessibility – Level 1	1.2	B	24 June 2025	Oculus Landscape Architects
1.3 Site Strategy Circulation& Access – Courtyard	1.3	B	24 June 2025	Oculus Landscape Architects

1.4 Site Strategy Soil Depth & Planter Heights – Courtyard	1.4	B	24 June 2025	Oculus Landscape Architects
1.5 Site Strategy Soil Depth & Planter Heights - Level 1 Commercial Terrace	1.5	B	24 June 2025	Oculus Landscape Architects
1.6 Site Strategy Tree Planting Soil Volumes on Structure - Courtyard + Level 1	1.6	B	24 June 2025	Oculus Landscape Architects
1.7 Site Strategy Soil Depths & Planter Heights - Building A Terraces & Building Facades	1.7	B	24 June 2025	Oculus Landscape Architects
1.8 Site Strategy Tree Planting Soil Volumes on Structure - Building A Terraces & Building Facades	1.8	B	24 June 2025	Oculus Landscape Architects
2.0 Concept Design	2.0	B	24 June 2025	Oculus Landscape Architects

2.1 Concept Design Ground Floor & L1 Plan	2.1	B	24 June 2025	Oculus Landscape Architects
2.2 Concept Design Courtyard Sections	2.2	B	24 June 2025	Oculus Landscape Architects
2.3 Concept Design Courtyard Sections	2.3	B	24 June 2025	Oculus Landscape Architects
2.4 Concept Design Courtyard Section	2.4	B	24 June 2025	Oculus Landscape Architects
2.5 Concept Design Laneway	2.5	B	24 June 2025	Oculus Landscape Architects
2.6 Concept Design Laneway Sections	2.6	B	24 June 2025	Oculus Landscape Architects
3.0 Planting	3.0	B	24 June 2025	Oculus Landscape Architects
3.1 Planting Plan Courtyard & L1	3.1	B	24 June 2025	Oculus Landscape Architects
3.2 Planting Plan Courtyard & L1 Tree Planting	3.2	B	24 June 2025	Oculus Landscape Architects

3.3 Planting Plan Building A Terraces & Building Facades	3.3	B	24 June 2025	Oculus Landscape Architects
3.4 Planting Plan Building A Terraces & Building Facades	3.4	B	24 June 2025	Oculus Landscape Architects
3.5 Planting Palette	3.5	B	24 June 2025	Oculus Landscape Architects
3.6 Planting Palette	3.6	B	24 June 2025	Oculus Landscape Architects
3.7 Planting Palette	3.7	B	24 June 2025	Oculus Landscape Architects
4.0 Maintenance	4.0	B	24 June 2025	Oculus Landscape Architects
4.1 Maintenance Maintenance Requirements	4.1	B	24 June 2025	Oculus Landscape Architects
Civil Plans				
Plan name	Drawing ref	Revision	Date	Prepared by
General Cover Sheet And Drawing Index	231989 TTW 00 DR CI 00001 B	B	22 April 2024	TTW Engineers
General Notes and Legend Sheet	231989 TTW 00 DR CI 00002 A	A	12 April 2024	TTW Engineers

General Existing Services Plan	231989 TTW 00 DR CI 00004 A	A	12 April 2024	TTW Engineers
General Arrangement Plan	231989 TTW 00 DR CI 00011 C	C	7 July 2025	TTW Engineers
Geometry Notes and Legend	231989 TTW 00 DR CI 01001 A	A	12 April 2024	TTW Engineers
Geometry Alignment Control and Grading Plan	231989 TTW 00 DR CI 01011 B	B	10 April 2025	TTW Engineers
Pavement Notes & Legend 1	231989 TTW 00 DR CI 03001 A	A	12 April 2024	TTW Engineers
Pavement Plan	231989 TTW 00 DR CI 03011 B	B	10 April 2024	TTW Engineers
Pavement Details Sheet 1	231989 TTW 00 DR CI 03041 A	A	12 April 2024	TTW Engineers
Pavement Details Sheet 2	231989 TTW 00 DR CI 03042 A	A	12 April 2024	TTW Engineers
Stormwater Notes & Legend Sheet 1	231989 TTW 00 DR CI 04001 A	A	12 April 2024	TTW Engineers
Stormwater & Subsoil Drainage Plan	231989 TTW 00 DR CI 04011 E	E	7 July 2025	TTW Engineers
Stormwater Details Sheet 1	231989 TTW 00 DR CI 04041 A	A	12 April 2024	TTW Engineers
Stormwater Details Sheet 2	231989 TTW 00 DR CI 04042 A	A	12 April 2024	TTW Engineers
Stormwater Details Sheet 3	231989 TTW 00 DR CI 04043 A	A	12 April 2024	TTW Engineers

Stormwater Details Sheet 4	231989 TTW 00 DR CI 04044 A	A	12 April 2024	TTW Engineers
Erosion Control Notes, Legend & Detail Sheet	231989 TTW 00 DR CI 09201 A	A	12 April 2024	TTW Engineers
Erosion Control Plan	231989 TTW 00 DR CI 09211 A	A	12 April 2024	TTW Engineers
Amended Survey Plan				
Plan name	Drawing Ref	Revision	Date	Prepared by
Sheet 1 of 3	50372 001DT	B	12.06.2025	LTS Lockley
Sheet 2 of 3	50372 001DT	B	12.06.2025	LTS Lockley
Sheet 3 of 3	50372 001DT	B	12.06.2025	LTS Lockley
Swept Path				
Plan name	Drawing Ref	Revision	Date	Prepared by
Turning Paths	2293_02	-	11.07.25	JMT Consulting
Turning Paths	2293_02	-	11.07.25	JMT Consulting
Amended Reports				
Report name	Ref	Revision	Date	Prepared by
Schedule of Amendments	-	-	24 June 2025	Architectus Australia Pty Ltd
Planning Letter in Response to Contention B1.5(1)	LEC 2024/00434568	-	16 April 2205	Architectus Australia Pty Ltd

Planning Letter in Regarding the Shared Zone CPTED Review	LEC 2024/00434568	-	17 April 2025	Architectus Australia Pty Ltd
Landscaping Letter in Response to Contentions	S24-002	-	16 April 2025	Oculus Landscape Architects
Acoustic Statement in Response to Contention B2.1	20240048.3/1604A /R1/HD	-	13 March 2025	Acoustic Logic Pty Ltd
Construction Noise and Vibration Preliminary Assessment	20240048.2/1403A /R0/HD	-	14 March 2025	Acoustic Logic Pty Ltd
Amended Report on Detailed Site Investigation (Contamination)	227016.03	Revision 1	10 April 2025	Douglas Partners Pty Ltd
Addendum to the Arboricultural Impact Assessment	Case number: 2024/004434568	-	18 April 2024	Advanced Treescape Consulting
Amended Operational Waste Management Plan	Report No. 5499	Revision H	24 June 2025	Elephant Consulting
Amended Statement of Environmental Effects	250701_65 burelli street_statement of environmental effects_updated	Issue E	1 July 2025	Architectus Australia Pty Ltd
Amended Clause 4.6 Written Request – Building Separation	-	Revision C	24 June 2025	Architectus Australia Pty Ltd

Clause 4.6 Written Request – Building Height	-	Revision A	24 June 2025	Architectus Australia Pty Ltd
Design Verification & Compliance	-	-	24 June 2025	Architectus Australia Pty Ltd
Traffic Statement	-	-	27 June 2025	JMT Consulting
Aboriginal Cultural Heritage Due Diligence Advice	Reference: 25137	-	30 June 2025	Austral Archaeology
Preliminary Historical Archaeological Assessment	Reference: 25137	-	1 July 2025	Austral Archaeology
Amended Civil Stormwater Report	231989	-	7 July 2025	TTW
DRAINS model	-	-	July 2025	TTW
Letter in relation to Natural Ventilation Plenum	-	-	19 August 2025	Windtech
Flooding Statement Letter	-	-	28 July 2025	Integrated Group Services
Water Surface and Depth Map During 1% AEP Storm Events for Post Scenario	-	-	25 August 2025	Integrated Group Services

Amended NatHERS and BASIX Assessment	2502091	Revision D	16 September 2025	Efficient Living
Amended BASIX plans	Certificate No. #HR-5YTNDY-01	-	-	Stefanie Simpson

Orders

88 The Court orders that:

- (1) Pursuant to s 8.15(3) of the *Environmental Planning and Assessment Act 1979* (NSW), the Applicant is to pay the costs of the Respondent that have been thrown away as a result of the amendment of the development application, in the agreed amount of \$7,000, such amount is to be paid within 28 days of the date of this order.
- (2) The appeal is upheld.
- (3) Development consent is granted to development application No DA-2024/584 as amended, for the demolition of existing structures and construction of five mixed-use buildings comprising of commercial, retail and residential tenancies including 204 residential apartments, three levels of basement car parking and removal of four trees as well as associated landscaping and public domain upgrades on land at 65-67 Burelli Street, 93-95 and 97-103 Church Street and 52 Stewart Street, Wollongong, NSW, 2500, subject to the conditions of consent in Annexure A.

G Kullen

Acting Commissioner of the Court

[Annexure A \(665 KB, pdf\)](#)

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Decision last updated: 11 November 2025