

DATE OF DETERMINATION	19 August 2021
PANEL MEMBERS	Gordon Kirkby (Chair), Renata Brooks, Susan Budd, Michael Mantei
APOLOGIES	David Brown
DECLARATIONS OF INTEREST	None

MATTER DETERMINED

PPSSTH-45 – WOLLONGONG – DA-2020/535 at 4-8 Parkinson Street, Wollongong – Demolition of existing structures and construction of an eleven (11) storey mixed use development comprising basement parking, ground floor home business premises, 64 residential units and 73 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 meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

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 2009 (LEP), that has demonstrated that:

- a) compliance with cl. 8.6(3)(a) (Minimum Building Separation) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 8.6(3)(a) (Minimum Building Separation) of the LEP and the objectives for development in the B3 Commercial Core zone; and
- c) 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 variation to minimum building separation; and approve the application for the reasons outlined in the council supplementary assessment report.

In making its determination, the Panel noted that:

- The amended development application (with the inclusion of ground floor commercial uses) is permissible with consent in the B3 Commercial Core Zone;
- With the amendment to the building design, the building setbacks are now in compliance with the Apartment Design Guide (ADG). The Panel accepts that the ADG setbacks are inconsistent with the Clause 8.6(3)(a) of the LEP, however, the Panel is of the view that ADG setbacks are more contemporary and are a state-wide amenity criteria. The Panel also notes that both Council and the

Panel have accepted variations to the building setback for other developments where ADG compliance has been demonstrated.

- The Panel is satisfied that the amended plans address the concerns regarding the arrangements for resident and commercial tenant access to waste storage areas in the building.
- The Panel notes that there is a minor non-compliance with the ADG overshadowing criteria on development on the south side of Parkinson Street. The Panel was of the view that the non-compliance was minor and acceptable when considered overall in the context of the CBD location.
- The Panel noted that while the amended development achieves the criteria for solar and daylight access, there is the potential that development of the site to the north may diminish solar access in the future. Notwithstanding this, the Panel accepted that the site's inner city location, topography and aspect, and its location in the context of current and future development to the north, were constraints that warranted a flexible approach in to the issue of potential future solar access. The Panel also noted that future development of the site to the north will be required to address overshadowing of the subject development as part of its development assessment process in the future.

CONDITIONS

The development application was approved subject to the recommended conditions in the council assessment report with the following amendments.

- **All conditions** – Remove Crown Street reference and amend to Parkinson Street. Any Crown street references to be removed where applicable.
- **Condition 2 Geotechnical**
Reference to Crown Street Geotechnical works deleted from Condition 2.
- **Condition 32 Landscape Maintenance Program**
Condition to manage the maintenance for landscaping in perpetuity.
This condition has been amended to require landscaping to be carried out in perpetuity.
- **Condition 36 Footpath Paving City Centre**
Reference to Crown Street foot paving upgrading works has been deleted from the Condition 36.
- **Condition 37 Street Trees City Centre**
Reference to Crown Street trees has been deleted from the Condition 37.
- **Condition 53 Site Management, Pedestrian and Traffic Management**
Council's Traffic Engineer has revised this condition and provided an updated condition with more detail on traffic management matters. Approval for the Site Management, Pedestrian and Traffic Management Plan to be given by Council's Manager Regulation and Enforcement prior to works commencing on the site.
- **Condition 77 Landscape planting- waterproof membrane**
This Condition has been updated to remove podium reference, so it applies to all landscaped areas.
- **Condition 78 Works to be in accordance with Construction and Environment Management Plan (CEMP)**
This condition has been updated to make reference to the CEMP as follows
All works on the site must be carried out in accordance with the approved Construction and Environment Management Plan (CEMP) and the Managing Urban Stormwater – Soils and Construction 'Blue Book' for the full duration of construction works.
- **Condition (new) – Include standard condition for Construction and Environment Management Plan (CEMP).**

The following condition has been added under Prior to Issue of Construction Certificate. Please note I have not re-numbered all the conditions yet to make cross-referencing with your previous comments easier.

Condition 9A Construction Environmental Management Plan (NEW CONDITION)

- a. Submit a construction environmental management to Principal Certifier, the plan shall address as minimum the vehicle traffic, odour and vapour, dust, plant and machinery noise, water and sediment management, surface water, subsurface seepage and accumulated excavation water, sediment from equipment and cleaning operations, site security, working hours, contact information, incident response and contingency management.
- b. Submit an excavated soil material disposal plan to Principal Certifier, with the batching, sampling and analysis procedures as per the DECCW (2009) *Waste Classification Guidelines*. The plan shall be prepared by a suitably qualified and experienced consultant.

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:

- Building setbacks
- Heritage
- Construction impacts
- Traffic
- Overshadowing
- Street trees

The panel considers that concerns raised by the community have been adequately addressed through the design amendments to the building and through the proposed measures outlined in the original assessment report and supplementary assessment report. Some of the issues raised related to the proposed north tower on Crown Street which was removed in the amended development application. The panel notes that in addressing these issues, the building design was amended to comply with the Apartment Design Guide building setbacks.

Appropriate conditions have been imposed addressing :

- Construction management – including the requirement for the preparation of a Construction Environmental Management Plan (CEMP)
- Street tree protection
- Site Management, pedestrian and traffic management during construction

PANEL MEMBERS	
 Gordon Kirkby (Chair)	 Renata Brooks
 Susan Budd	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-45 – WOLLONGONG – DA-2020/535
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of an eleven (11) storey mixed use development comprising basement parking, ground floor home business premises, 64 residential units and 73 parking spaces.
3	STREET ADDRESS	4-8 Parkinson Street, Wollongong
4	APPLICANT/OWNER	Blaq Projects Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Capital Investment Value > \$30M
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy No 65—Design Quality of Residential Apartment Development State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 Wollongong Local Environmental Plan 2009 Wollongong City-Wide Development Contributions Plan 2019 Wollongong Community Participation Plan 2019 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Wollongong Development Control Plan 2009 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil 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 April 2021 Council addendum report: 7 June 2021 Clause 4.6 variation: Clause 8.6, building separation Written submissions during public exhibition: 12 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Michael Pelekanos, Kallioti Pelekanos Council assessment officer – Lauren Wilson, Vanessa Davis, Pier Panozzo, Janelle Johnston On behalf of the applicant – Luke Rollinson, Tony Jreige, George Jreige
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: Wednesday, 14 October 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Gordon Kirkby (Chair), Renata Brooks, Tim Fletcher, Michael Mantei <u>Council assessment staff</u>: Vanessa Davis, Pier Panozzo, Mark Riordan, Linda Davis

		<ul style="list-style-type: none"> ○ <u>DPIE Staff</u>: Michelle Burns, Amanda Moylan, Sung Pak • Briefing to discuss council's recommendation: Tuesday, 13 April 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Gordon Kirkby (Chair), Renata Brooks, Susan Budd, David Brown, Michael Mantei ○ <u>Council assessment staff</u>: Lauren Wilson, Vanessa Davis, Pier Panozzo, Janelle Johnston ○ <u>Applicant representatives</u>: Jared Beneru ○ <u>DPIE Staff</u>: Michelle Burns, Amanda Moylan, Sung Pak • Final briefing to discuss council's recommendation: Tuesday, 6 June 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Gordon Kirkby (Chair), Renata Brooks, Susan Budd, David Brown, Michael Mantei ○ <u>Council assessment staff</u>: Lauren Wilson, Vanessa Davis, Pier Panozzo, Janelle Johnston, Alexandra McRobert ○ <u>DPIE Staff</u>: Michelle Burns, Amanda Moylan
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report