

DATE OF DETERMINATION	Friday, 11 March 2022
DATE OF PANEL DECISION	Friday, 11 March 2022
DATE OF PANEL MEETING	Monday, 21 February 2022
PANEL MEMBERS	Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli and John McFadden
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 14 February 2022.

MATTER DETERMINED

PPSSWC-149 – Wollondilly Shire Council – DA/2021/305/1 at 66 Menangle Street Picton, 2 Colden Street Picton & 4 Colden Street Picton (Lot A DP158722, Lot B DP158722 and Lot A DP153067) - Performing Arts Centre and associated works (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 listed at item 8 in Schedule 1.

Application to vary a development standard

The proposed development has a maximum height of 11.8m resulting in a variation of 2.8m (31.11%) to the maximum building height development standard of 9m pursuant to Clause 4.3 of the Wollondilly Local Environmental Plan 2011.

The Panel has considered the applicant's written request made under cl 4.6 (3) of Wollondilly Local Environmental Plan 2011 (LEP) to permit that departure from the development standard.

The Panel is satisfied that it is in the public interest to grant the request, and that the request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP. There are sufficient environmental planning grounds identified and established in the written request to justify contravening the development standard such that compliance is unreasonable or unnecessary in the circumstances.

In particular, the development as proposed will be consistent with the objectives of cl. 4.3 of the LEP and the objectives for development in Zone B2 Local Centre. The building at the proposed height will still be a dramatic positive enhancement to the streetscape and character of the area in which the development is to be located. The building presents a high degree of architectural sophistication and its visual impacts are well managed.

The additional height is setback from the boundaries of the property, and will not impact adversely on any adjacent property. The additional height will not disrupt views, result in unacceptable loss of privacy or cause adverse solar access to existing development.

Compliance with the height standard would adversely impact the ability of the new building to function as a high quality venue, and so would compromise the achievement of the vision of the WCCCP Master Plan (2020).

The concurrence of the Secretary is assumed (see Planning Circular PS 20-002 issued 5 May 2020).

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 proposed development comprises a multi-function hall to serve as the Wollondilly Performing Arts Centre forming a crucial part of Stage 1 of the Wollondilly Community, Cultural and Civic Precinct Master Plan. By providing for a range of theatre and artistic formats, in conjunction with other presentation, civic, exhibition and cinematic uses, the project will be a major injection into the cultural life of Picton township and the larger Wollondilly region.

By providing a venue for live performance it will foster a richer cultural life, a new focus for social interaction, and crucial infrastructure to further develop creativity and cultural expression and innovation through the local arts sector. As such it fulfils important aspects of the vision recorded in the Western City District Plan of “fostering healthy, creative, culturally rich and socially connected communities” (See Planning Priority W4).

The architectural design of the new building is dramatic and ambitious. If the architectural vision behind the plans is realised through the construction process, the building should provide a dramatic uplift to the town centre and an important beginning for the success of the Master Plan.

In particular, the Panel notes and accepts the advice of the Council’s independent assessment planner that:

“The proposal is generally consistent with all relevant environmental planning instruments and is considered satisfactory. The proposal varies the maximum building height control for the site under the Wollondilly Local Environmental (LEP) 2011. The applicant submitted a Clause 4.6 Variation Request, and the proposed variation is considered to be reasonable as outlined in this report. The internal and external referral concerns have been addressed and considered satisfactory.

The application is consistent with the adopted Master Plan for the Wollondilly Community, Cultural and Civic Precinct Master Plan and relevant state and local planning policies. The design provides a reasonable and sustainable response that allows for the protection of the environment and heritage, protection of commercial uses, promotion of internal amenity and management of parking/access.

The proposed development has been assessed against the relevant matters for consideration pursuant to Section 4.15 of the Environmental Planning and Assessment Act, 1979, including likely impacts, the suitability of the site for the development, and the public interest, and the proposed development is considered appropriate.”

It is on that basis that the panel determined to uphold the Clause 4.6 variation request in relation to building height; and approve the application for the reasons outlined in the council assessment report.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following additional condition to ensure that the architect’s vision is followed through with the quality of materials and workmanship used during construction:





“Prior to the issuing of a construction certificate, the registered architect responsible for the design of the project is to provide a certification that the materials and relevant construction details to be utilised in the project have been sufficiently specified in the plans and specifications as to satisfy that architect that they will achieve design excellence and realise the architect’s design vision for the scheme.”

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered the one written submission made during public exhibition. The Panel notes that issues of concern included:

- Amenity impacts on surrounding land use resulting from the long-term construction of the proposal
- Incomplete assessment against the relevant provisions of the Disability Discrimination Act (DDA) 1992 which a number of items listed as being still required or under development
- Height variation
- Traffic and parking Impacts
- Failure to recognise the significance of the wider region

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and recommended conditions of consent.

PANEL MEMBERS	
 Justin Doyle (Chair)	 Nicole Gurran
 Louise Camenzuli	 John McFadden

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSWC-149 – Wollondilly Shire Council – DA/2021/305/1
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of the Wollondilly Performing Arts Centre and associated works.
3	STREET ADDRESS	66 Menangle Street Picton, 2 Colden Street Picton & 4 Colden Street Picton (Lot A DP158722, Lot B DP158722 and Lot A DP153067).
4	APPLICANT/OWNER	Applicant/Owner: Tract Consultants Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> Environmental Planning and Assessment Act 1979 Coal Mine Compensation Act 2017 State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy No 55 – Remediation of Land State Environmental Planning Policy No. 64 Advertising and Signage Sydney Regional Environmental Planning Policy No 20 – Hawkesbury-Nepean River Wollondilly Local Environmental Plan 2011 Western City District Plan Wollondilly Local Strategic Planning Statement Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Wollondilly Development Control Plan 2016 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Environmental Planning and Assessment Regulation 2000 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"> Assessment Report: 8 February 2022 Clause 4.6 Exceptions to development standards Written submissions during public exhibition: One (1)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: Tuesday, 5 October 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli, Robert Khan and Rachel Harrison <u>Council consultant planner</u>: Mairead Hawes Director – The Planning Hub <u>Council staff</u>: Michael Buckley, Corrie Swanepoel & Toni Averay Final briefing to discuss council's recommendation through its consultant planner: Monday, 21 February 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Justin Doyle (Chair), Nicole Gurran, Louise Camenzuli and John McFadden <u>Council consultant planner</u>: Mairead Hawes Director – The Planning Hub <u>Representatives of the Council as Applicant</u>: Michael Buckley, Corrie Swanepoel
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Assessment Report