

<b>DATE OF DETERMINATION</b>	Wednesday, 30 September 2020
<b>PANEL MEMBERS</b>	Gordon Kirkby (Chair), Renata Brooks, Susan Budd, David Brown and Michael Mantei
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Tim Fletcher: Is known to the architect of this application, this firm is currently engaged by Shoalhaven City Council on a project that he is also currently working on employed casually by Shoalhaven City Council.

Public meeting held by Public Teleconference on 30 September 2020, opened at 11:10am and closed at 12:45pm.

**MATTER DETERMINED**

PPSSTH-26 – Wollongong – DA-2020/4 at 14 Cosgrove Avenue Keiraville NSW 2500 Lot 90 DP 1086429 – Residential - multi dwelling housing development (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.

**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 following reasons:

1. Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, it is considered the built form, scale and visual impact of the proposed development, together with the extent of modification of the natural landscape, will have a significant adverse impact in the locality.
2. Pursuant to the provisions of Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, it is considered the site is not suitable for the development proposal.
3. Amended plans and additional information requested by Council to enable it to properly assess the application pursuant to the provisions of Section 4.12 of the Environmental Planning and Assessment Act 1979 were not submitted. In this regard under Clause 54 of the Environmental Planning and Assessment Act Regulation, 2000, additional details were requested in Council’s letter dated 8 May 2020 and the information that has been provided to Council does not adequately address the matters raised. The determination has been made on the basis of information submitted to date.
4. Pursuant to section 1.7 of the Environmental Planning and Assessment Act 1979, the likely impact of the proposed development on biodiversity values as assessed in the biodiversity development assessment report are unacceptable having regard to the provisions of Part 7 of the Biodiversity Conservation Act 2016.
5. Insufficient information has been submitted pursuant to the provision of Section 4.46 of the Environmental Planning and Assessment Act 1979 to enable the NSW Rural Fire Service to issue a

Bushfire Safety Authority pursuant to Section 100B of NSW Rural Fires Act 1997. The panel, as the consent authority is not satisfied that the proposed development conforms to the specifications and requirements of Planning for Bushfire Protection 2006.

6. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered the application submission fails to demonstrate the development proposal is both permissible and consistent with the objectives of the E2 Environmental Conservation zone of Wollongong Local Environmental Plan 2009.
7. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered development proposal is inconsistent with the objectives of the R2 Low Density Residential of Wollongong Local Environmental Plan 2009.
8. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered the development proposal is unacceptable and inconsistent with Wollongong Local Environmental Plan 2009 with respect to:
  - Clause 5.10 Heritage conservation
  - Clause 7.2 Natural resource sensitivity – biodiversity
  - Clause 7.6 Earthworks
  - Clause 7.8 Illawarra Escarpment area conservation
  - Clause 7.14 Minimum site width
9. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered the development proposal is unacceptable and inconsistent with the following Chapters of Wollongong Development Control Plan 2009:
  - Chapter A2 Ecologically Sustainable Development
  - Chapter B1 Residential Development
  - Chapter B6 Development in the Illawarra Escarpment
  - Chapter D1 Character Statement
  - Chapter E2 Crime Prevention through Environmental Design
  - Chapter E3 Car Parking, Access, Servicing/Loading Facilities and Traffic Management
  - Chapter E6 Landscaping
  - Chapter E7 Waste Management
  - Chapter E10 Aboriginal Heritage
  - Chapter E11 Heritage Conservation
  - Chapter E14 Stormwater Management
  - Chapter E16 Bush Fire Management
  - Chapter E17 Preservation and Management of Trees and Vegetation
  - Chapter E19 Earthworks (Land Reshaping Works)
  - Chapter E22 Soil Erosion and Sediment Control
  - Chapter E23 Riparian Land Management
10. Pursuant to the provisions of Section 4.15 (1) (d) and (e) of the Environmental Planning and Assessment Act 1979 it is considered that in the circumstances of the case and with submissions received, approval of the development proposal would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.

#### **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:

- Geotechnical issues / slope stability
- Traffic, access and parking
- Bushfire
- Stormwater management
- Visual amenity
- Scale and density of the development
- Amenity impacts on adjoining properties including privacy, noise and overshadowing

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



Gordon Kirkby (Chair)



Renata Brooks



Susan Budd



David Brown



Michael Mantei

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-26 – Wollongong – DA-2020/4
2	PROPOSED DEVELOPMENT	Residential - multi dwelling housing development comprising the construction of five (5) buildings with a total of 47 dwellings, 109 car parking spaces, associated earthworks, tree removal, internal accessway, landscaping, APZs, stormwater drainage, substation and Subdivision - Strata title
3	STREET ADDRESS	14 Cosgrove Ave, Keiraville NSW 2500 Lot 90 DP 1086429
4	APPLICANT/OWNER	Surewin Parkview Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy No. 44 – Koala Habitat Protection</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy (State and Regional Development) 2011</li> <li>○ Wollongong Local Environmental Plan (WLEP) 2009</li> <li>○ Wollongong City-Wide Development Contributions Plan 2019</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Wollongong Development Control Plan (WDCPO 2009)</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 11 September 2020</li> <li>• Clause 7.14 Minimum site width of Wollongong Local Environmental Plan 2009</li> <li>• Written submissions during public exhibition: 105</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Philip Laird, Honglin Chen, Geoff Kelly, Dianne Barlett, Yvonne Toepfer, Felix Bronneberg, Irene Tognettio, Irit Alony, Sue Martin, Martin Bunder, Michael Kokot, Elizabeth Keenan, George Dellar, Greg Bathurst and Andrew Reveley</li> <li>○ Council assessment officer – John Wood,</li> <li>○ On behalf of the applicant – Helen Deegan</li> </ul> </li> <li>• Total number of unique submissions received by way of objection: 104</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing: Tuesday, 25 August 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Gordon Kirkby (Chair), Renata Brooks, Susan Brooks, David Brown and Michael Mantei</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Council assessment staff</u>: Vivian Lee and John Wood</li> <li>● Final briefing to discuss council’s recommendation: Wednesday, 30 September 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Gordon Kirkby (Chair), Renata Brooks, Susan Budd, David Brown and Michael Mantei</li> <li>○ <u>Council assessment staff</u>: Eliza Metcalfe, John Wood, Briarna Lee, Jenna Andrews, Nathan McBriarty and Mark Riordan</li> </ul> </li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Refusal
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report