

DETERMINATION AND STATEMENT OF REASONS

WOLLONGONG CITY COUNCIL – WOLLONGONG LOCAL PLANNING PANEL (WLPP)

DATE OF DETERMINATION	7 December 2021
PANEL MEMBERS	Robert Montgomery (Chair), Larissa Ozog, Sue Hobley, Edger du Bois (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 7 December 2021 opened at 5:00pm and closed at 6:46pm.

MATTER DETERMINED

DA-2021/279 – Lot 1 DP 966733 , Clifton School of Arts, 338 Lawrence Hargrave Drive, Clifton (as described in detail in schedule 1).

PUBLIC SUBMISSIONS

The Panel was addressed by four (4) submitters.

The Panel heard from the applicant.

PANEL CONSIDERATION AND DECISION

The Panel considered the matters listed at item 7, and the material presented at the meeting and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application as described in Schedule 1 by way of Deferred Commencement Consent pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

- The Panel considers that the proposal is an appropriate response to assist in the ongoing viability of the heritage listed School of Arts building and will continue the community- and arts-based uses of the site.
- The Panel acknowledges that there is limited opportunity for parking in the immediate area, however, as a heritage item with credit for the existing building, the development satisfies Council's requirements. It is noted that the assessment of this application is consistent with other approvals relating to heritage items in the Wollongong local government area.
- The Panel is concerned that no information is provided in relation to the condition or capacity of the existing septic tank which is to have a structure built over it. It is noted that stormwater detention infrastructure is to be installed between the existing septic tank and the western wall of the existing heritage-listed building, raising additional concerns regarding potential structural impacts on the septic tank, the age of which is unknown. The Panel requires this matter to be dealt with by a deferred commencement condition.
- In discussion with the Panel, the applicant agreed to accept additional conditions relating to:
 - restricting musical performances to non-amplified (acoustic) performances only;
 - including a complaints management procedure and contact phone number in the plan of management; and
 - providing information about capacity, condition and management of the septic tank.
- Landscaping conditions are deleted /amended for consistency and to ensure appropriate species are planted. number of additional conditions were considered necessary to protect the integrity of the

heritage item. The condition requiring paving of the public footpath was considered unnecessary in the circumstances.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments. Consent is issued as a deferred commencement consent

DEFERRED COMMENCEMENT CONDITIONS

The consent shall not operate until the following conditions are satisfied in accordance with Section 4.16(3) of the EP and A Act;

1. The applicant shall provide a report prepared by a suitably qualified person which: details the following:
 - The applicant shall provide a report prepared by a suitably qualified person which details the capacity, longevity, registration and operation of the existing Septic Tank to the satisfaction of Council to ensure that the tank can cater for the additional capacity.
 - If a new Septic Tank is required, details of the size, scale, capacity, location and operation shall be provided to the satisfaction of Council taking into account the location of the OSD and associated infrastructure. Specify any protection measures necessary in relation to the installation of an OSD in the proposed or otherwise identified location.
2. An application to install an On-Site Sewage Management System shall be submitted to the satisfaction of Council.
3. A detailed stormwater design and construction specification that ensures that stormwater infrastructure (including OSD) will have no impact on the integrity of the existing building and septic tank shall be submitted to, and approved by, Council.
4. An amended operational plan of management shall be submitted to the satisfaction of Council, which includes, but is not limited to, the following matters:
 - A complaints management procedure, including a contact phone number and complaints register, to manage complaints relating to noise and any other matters which may potentially impact neighbouring properties;
 - No amplified music or performances are permitted;
 - Encourage patrons and organisers to consider alternative modes of transport for participants and visitors prior to hosting or facilitating an event to minimise traffic and parking disruption on local streets; and
 - A reference to the lack of car parking is to be included on the Clifton School of Arts website and any marketing material for public events should include suggested alternatives to parking.

OTHER CONDITIONS

The proposed conditions in Attachment 2 of the officer's report are amended by deleting and amending some of the proposed conditions and by adding a number of conditions:

The following proposed conditions are deleted:

Conditions 8, 9, 22, 24, 31, 32 and 35.

The following proposed conditions are amended as detailed below:

Condition 12 – Amend the condition to read: “A window schedule that provides additional detail on the window shown facing Clifton School Parade is to be provided to the satisfaction of Council's Heritage Officer prior to the issuing of the Construction Certificate.”

Condition 18 - Add: "(g) The proposed tree planting on the north-east corner of the site shall be located further west to ensure sightlines for vehicles exiting Clifton School Parade onto Lawrence Hargrave Drive are not obstructed."

Condition 25 - Change the tree species from *Waterhousia floribunda* 'Green Avenue' Weeping Lilly Pilly to: *Cupaniopsis anacardioides* (Tuckeroo) and reduce the container size from 200l to 45l.

Condition 45 - Delete the proposed species and replace with:

"Recommended species: *Ceratopetalum gummiferum* (NSW Xmas Bush), *Cordyline stricta* (Palm Lily), *Cyathea australis* (Rough Tree Fern), *Davallia pyxidata* (Haresfoot Fern), *Duboisia myoporoides* (Corkwood), *Ficus coronata* (Sandpaper Fig), *Leptospermum polygalifolium* (Tea Tree), *Omolanthus nutans* (Bleeding Heart). A further list of suitable suggested species for the Clifton area may be found in Wollongong Development Control Plan 2009 - Chapter E6: Landscaping. A variety of different species shall be used."

The following conditions are added:

1. A heritage consultant experienced in conserving buildings of significance shall be engaged to oversee the proposed construction works. Evidence and details of the above commission on the above terms are to be provided to Council's Heritage Advisor prior to commencement of work on site.

The heritage consultant must sign off the completed project and submit a final report to Council's Heritage Advisor specifying how the heritage conditions are satisfied prior to the issue of an **Occupation Certificate** or the commencement of the use, whichever is earlier.

2. The proposed new rendered and painted wall along the north-western elevation shown on the photomontage as "white" shall be painted and finished with a softer, neutral colour that is more sympathetic to the finishes and colours of the Heritage Item. The heritage consultant should advise on suitable finishes and colours.
3. Any new walls painted "black" as shown on the photomontage that accompanies the application shall be replaced with softer, neutral colours that will be more recessive and complementary to the colours and finishes of the Heritage Item. The heritage consultant should advise on colours and finishes.
4. The proposed works are to be carried out in a manner that minimises demolition, alterations (where possible) and new penetrations/fixings to the significant fabric of the existing building which is listed as a Heritage Item.
5. The fabric and features to be retained by the proposal must be properly protected during the process of demolition and construction.
6. New services are to be surface mounted, rather than chased-into existing walls, to minimise impact on heritage fabric.
7. Appropriately qualified tradespersons (as appropriate) are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works.
8. Any new brickwork, finishes or windows and doors on the existing building must match the original material.
9. Any existing face brickwork/stone/tiles must not be rendered, painted or coated.
10. Where internal partitions meet external walls they must abut window mullions, columns or other such building elements and not glazing.
11. All conservation and adaptation works are to be in accordance with the Articles of the Australian ICOMOS Burra Charter 1999. Appropriately qualified contractors and tradespersons are to be commissioned who are skilled in traditional building and engineering trades to carry out the proposed scope of works within the heritage building.
12. Should any concealed architectural features or detailing, not previously noted in the DA documentation, be discovered during the building works, all works are to immediately cease and the architectural

features or detailing to be photographically recorded and Council's Heritage Advisor is to be contacted for advice.

13. The southern side of the deck adjoining the trough and associated staircase landing shall include a solid privacy screen with a minimum height of 1.6m from the finished floor level. The screen shall be constructed of obscure glazing, solid timber battens or the like to minimise the potential for overlooking and minimise any acoustic impacts to adjoining properties.

14. The proposed use of the premises and the operation of all plant and equipment shall not give rise to an 'offensive noise' as defined in the [Protection of the Environment Operations Act 1997](#) (as amended) and [Regulations](#).

A suitably qualified person shall certify that the operation of the plant equipment shall not give rise to sound pressure level at any affected premises that exceeds the background LA90, 15 min noise level, measured in the absence of the noise sources under consideration by more than 5dB. The source noise level shall be assessed as an LAeq, 15 min in accordance with the [NSW Environment Protection Authority's "NSW industrial Noise Policy](#)

15. No amplified music or performances are permitted.

16. The activities proposed at the centre are to be limited to small scale community, cultural, social, artistic events. These are to be consistent with the existing gallery use and shall not include any private functions of any nature.

PANEL MEMBERS	
 Robert Montgomery (Chair)	 Larissa Ozog
 Sue Hobley	 Edger du Bois (Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2021/279
2	PROPOSED DEVELOPMENT	Addition and visual enhancement to Clifton School of Arts building.
3	STREET ADDRESS	338 Lawrence Hargrave Drive, CLIFTON NSW 2515
4	APPLICANT	Timothy Antiohos
5	REASON FOR REFERRAL	Greater than 6 objections
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy No 55 – Remediation of Land ○ State Environmental Planning Policy (Coastal Management) 2018 ○ Wollongong Local Environment Plan 2009 • Wollongong Section 94A Development Contributions Plan • Draft environmental planning instruments: None applicable • Development control plans: <ul style="list-style-type: none"> ○ Wollongong Development Control Plan 2009 • Planning agreements: None. • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: None applicable • Coastal zone management plan: None applicable • 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 dated 7 December 2021 • Written submissions during public exhibition: 11 objections & 1 support • Verbal submissions at the public meeting: four (4)
8	SITE INSPECTIONS BY THE PANEL	<p>Virtual site inspection 7 December 2021. Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Robert Montgomery (Chair), Larissa Ozog, Sue Hobley, Edger du Bois (Community Representative) ○ <u>Council assessment staff</u>: Jacob Williams (DPO Acting)
9	COUNCIL RECOMMENDATION	Approve
10	DRAFT CONDITIONS	Attached to the council assessment report