

## DETERMINATION AND STATEMENT OF REASONS

### WOLLONGONG CITY COUNCIL – WOLLONGONG LOCAL PLANNING PANEL (WLPP)

<b>DATE OF DETERMINATION</b>	29 August 2023
<b>PANEL MEMBERS</b>	Robert Montgomery (Chair), Larissa Ozog, Scott Lee, Bernard Hibbard (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 29 August 2023 opened at 5:00pm and closed at 6:03pm.

#### MATTER DETERMINED

DA-2023/50 – Lots 1 and 2 DP 18332, 4-6 Blacket Street, North Wollongong (as described in detail in schedule 1).

#### PUBLIC SUBMISSIONS

No one addressed the Panel.

#### 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 refuse the development application as described in Schedule 1 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 concurs with the Officer's assessment and recommendation.
- In addition to the reasons for refusal, the Panel considers that the reduced setback to the rear of the property adds to the bulk of the building and creates an unacceptable visual impact when viewed from the adjoining public reserve.


#### REASONS FOR REFUSAL

The development application was refused for the following reasons:

1. The proposal does not demonstrate design excellence as required under Clause 7.18 of Wollongong Local Environmental Plan 2009.
2. The proposal is inconsistent with the design quality principles of State Environmental Planning Policy 65 – Design Quality of Residential Apartment Development with respect to:
  - Principle 2 Built form and scale
  - Principle 3 Density
  - Principle 4: Sustainability
  - Principle 5: Landscape
  - Principle 8: Housing diversity and social interaction
3. The proposal does not adequately address the Apartment Design Guide with regard to the following:
  - 3D Communal and public open space
  - 3F Visual privacy
  - 4K Apartment mix
  - 4Q Universal design

4. The proposal does not comply with Wollongong Local Environmental Plan 2009 with regard to the following:
  - The proposal involves surplus car parking areas which are to be included as gross floor area. This results in the overall FSR exceeding the maximum under Clause 4.4A of the LEP. No clause 4.6 has been provided nor are the circumstances considered to warrant an exemption to the development standard.
  - The proposal does not demonstrate design excellence under clause 7.18.
5. The proposal does not comply with Wollongong Development Control Plan 2009 with regard to the following:
  - Chapter D13 Wollongong City Centre
    - 2.4 Building depth and bulk
    - 2.5 Side and rear building setbacks and building separation
    - 2.7 deep soil zone
    - 4.4 On-site car parking
    - 6.2 Housing choice and mix
    - 6.6 Basement car parks
    - 6.7 Communal open space
  - Chapter E1: Access for People with a Disability: Equitable access is not provided to the rear communal open space area.
  - Chapter E3: Car Parking, Access, Servicing/Loading Facilities and Traffic Management: The proposal exceeds the car parking requirements of the DCP.
  - Chapter E6: Landscaping: The arborist report does not accurately show the extent of basement excavation encroaching into the tree protection zone of the large street tree.
  - Chapter E7: Waste Management: A Site Waste minimisation and Management Plan has not been provided.
  - Chapter E13: Floodplain Management: It has not been demonstrated how the basement carpark is to be protected from inundation from stormwater flows along the street.
  - Chapter E14: Stormwater Management: The proposal does not satisfy the requirements of the DCP with respect to stormwater disposal.
  - Chapter E19: Earthworks (Land Reshaping Works): The proposal does not minimise impacts associated with excavation and construction by being excessive in size in consideration of the needs to service the building.
6. Excessive excavation has additional environmental impacts (sustainability, noise and disruption during excavation, truck movements) and encroaches into the tree protection zone to the south, and reduces opportunity for sufficient screening and boundary landscaping.
7. The proposed 3m setback of the building to the rear boundary is considered insufficient and fails to provide an adequate amount of landscaping and physical separation between the subject site and the public domain at the rear and creates a bulky and visually dominating structure. The setback fails to comply with the minimum separation distances required by SEPP 65 as stipulated by the Apartment Design Guide (Part 3F) and Council's Development Control Plan.

Should the decision be legally appealed, the Panel delegates any function of the Panel to defend the matter in accordance with S2.20(8) of the Act to Council.

PANEL MEMBERS	
 Robert Montgomery (Chair)	 Larissa Ozog
 Scott Lee	 Bernard Hibbard (Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2023/50
2	PROPOSED DEVELOPMENT	Residential - demolition of existing structures, tree removal and construction of a residential flat building including ten (10) units and associated basement parking
3	STREET ADDRESS	4-6 Blacket Street North Wollongong
4	APPLICANT	ADM Architects
5	REASON FOR REFERRAL	The proposal is development to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies
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 (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>Wollongong Local Environment Plan 2009</li> </ul> </li> <li>NSW Apartment Design Guide</li> <li>Wollongong Development Contributions Plan</li> <li>Draft environmental planning instruments: N/A</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Wollongong Development Control Plan 2009</li> </ul> </li> <li>Planning agreements: N/A</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: clause 61(1) Australian Standard AS 2601—2001: The Demolition of Structures</li> <li>Coastal zone management plan: N/A</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 dated 29 August 2023</li> <li>Written submissions during public exhibition: five (5)</li> <li>Verbal submissions at the public meeting: Nil</li> </ul>
8	SITE INSPECTIONS BY THE PANEL	Site inspection 29 August 2023. Attendees: <ul style="list-style-type: none"> <li><u>Panel members</u>: Robert Montgomery (Chair), Larissa Ozog, Scott Lee, Bernard Hibbard (Community Representative)</li> <li><u>Council assessment staff</u>: Pier Panozzo, Nigel Lamb</li> </ul>
9	COUNCIL RECOMMENDATION	Refuse
10	DRAFT REASONS FOR REFUSAL	Attached to the council assessment report