

DETERMINATION AND STATEMENT OF REASONS

WOLLONGONG CITY COUNCIL – WOLLONGONG LOCAL PLANNING PANEL (WLPP)

DATE OF DETERMINATION	2 May 2024
PANEL MEMBERS	Stephen Davies (Chair), Jan Murrell, Tina Christy

Transaction of business outside of meetings pursuant to Clause 26 of Schedule 2 of the *Environmental Planning and Assessment Act, 1979*.

MATTER DETERMINED

DA-2022/1010 - Lot B DP 344298, 127 Lawrence Hargrave Drive, Austinmer (as described in detail in schedule 1).

On 21 November 2022 the Panel determined to defer the development application as described in Schedule 1 pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* for the following reasons:

1

(A meeting to be held with the applicant and Council's Asset and Property sections to determine what should happen with the existing retaining wall on Austinmer Reserve adjacent to the property boundary, ie. whether it should be retained or demolished.

2 Amended plans being provided that:

- i Show cross-sections of the landscaping outcomes, retaining walls and stairs along Austinmer Reserve including RL's to AHD and at least two (2) cross-sections consistent with Council's position on the retaining wall including materials and structural adequacy.
- ii Details of all fencing along boundaries and the construction methodology of the fence along the western and northern boundary and retaining walls under the canopy of T3. The construction methodology is to be reviewed and agreed to by the arborist. Additional cross-sections showing the relationship of retaining walls, fences and landscape treatment to T3 are to be provided.
- iii Landscape plans and architectural plans are to be amended to show consistent cross-sections, including levels on top of walls and finished ground levels at boundaries.
- iv A construction methodology outlining how excavation can occur on-site without impacting upon the adjoining property at 129 Lawrence Hargrave Drive.

This matter is re-submitted for electronic determination as per previous Panel recommendations.

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 has considered the applicant's written request to justify the contravention of the *floor space ratio* development standard and is satisfied that it demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of this case and that there are sufficient environmental planning grounds to justify contravening the development standard.

The Panel is also satisfied that the proposed development will be in the public interest because it is consistent with the objectives of the relevant development standard and the objectives of the relevant zone.

The Panel determined to approve 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 considered the original reasons for deferral and the applicant’s resubmission package and concurs with Council Officer’s report that these matter have been satisfactorily addressed and the amended application warrants approval.




CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendment to proposed Condition 2 as follows:

2 Licence Agreement

Prior to any works on site including demolition, the applicant must enter into an appropriate Licence agreement with Council for works on the adjoining Austinmer Reserve to remove the existing retaining wall, concrete steps and landing as shown in Demolition Plan DA-004 dated 16.01.24 revision B prepared by Sherson Architecture and grading works identified on Flame Tree Landscape Design Plan reference DA-101 - Detail Plan 01 dated December 2023.

An application must be made to Council’s Property Division for determination at least three months prior to the proposed commencement date of the works/occupation so that it may be advertised and assessed in accordance with the Local Government Act 1993.

PANEL MEMBERS	
 Stephen Davies (Chair)	 Jan Murrell
 Tina Christy	

SCHEDULE 1

1	DA NO.	DA-2022/1010
2	PROPOSED DEVELOPMENT	Demolition of existing dwelling, tree removal, construction of dwelling, swimming pool and associated landscape works including retaining walls
3	STREET ADDRESS	127 Lawrence Hargrave Drive AUSTINMER
4	APPLICANT	Rebecca Goodman Town Planning Pty Ltd
5	REASON FOR REFERRAL	The proposal has been referred to the WLPP for determination pursuant to clause 3, Schedule 2 of the Local Planning Panels Direction as the development involves departure to Clause 4.4 Floor Space Ratio in Wollongong Local Environmental Plan (WLEP) 2009 by more than 10%.
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ Wollongong Local Environment Plan 2009 • Wollongong Development Contributions Plan • Development control plans: <ul style="list-style-type: none"> ○ Wollongong Development Control Plan 2009 • Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Section 61 Additional matters that consent authority must consider in relation to demolition works • 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's Addendum Report dated 2 May 2024.
8	SITE INSPECTIONS BY THE PANEL	Virtual Site inspection 2 May 2024 Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Stephen Davies (Chair), Jan Murrell, Tina Christy ○ <u>Council assessment staff</u>: John Wood, Brigit Mathai
9	COUNCIL RECOMMENDATION	Approve
10	DRAFT CONDITIONS	Attached to the Council addendum report