

# DETERMINATION AND STATEMENT OF REASONS

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

DATE OF DETERMINATION	1 June 2021
PANEL MEMBERS	Robert Montgomery (Chair), Alison McCabe, Steve Fermio, Tina Christy (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 1 June 2021 opened at 5:00pm and closed at 7:10pm.

### MATTER DETERMINED

DA-2020/1274, Lot 1 DP 1073935 40 Moore Street, Austinmer (as described in detail in schedule 1).

### PUBLIC SUBMISSIONS

The Panel was addressed by six 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 has considered the applicant's written request to justify the contravention of the floor space development standard and is satisfied that it demonstrates that compliance with the standard is unreasonable and unnecessary in the circumstances of this case. The Panel also considered that there are sufficient environmental planning grounds to justify contravening the development standard, but only in relation to the additional floor space arising from the alterations and additions to the existing café/residence building.

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* subject to the addition of the following condition:

- 1 The rear garage and studio structure is to be deleted. No approval is granted to this building.

The decision was unanimous

### REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

- The Panel considers that the site is constrained and cannot accommodate additional floor space as proposed in the separate garage/studio. In this regard, this portion of the development would result in unreasonable impacts on the amenity of neighbouring properties. These impacts arise from the non-compliant development.
- The Panel considers that the proposal to increase residential floor space within and adjoining the heritage building results in a good heritage outcome which will assist with long-term retention of the building.

### CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the additional condition as above.

PANEL MEMBERS



Robert Montgomery  
(Chair)



Alison McCabe



Steve Fermio



Tina Christy  
(Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2020/1274
2	PROPOSED DEVELOPMENT	Residential – Alterations to existing shop top housing, minor alterations to café and addition to dwelling, detached garage and studio.
3	STREET ADDRESS	40 Moore Street, AUSTINMER NSW 2515 Lot 1 DP 1073935
4	APPLICANT/OWNER	Studio Takt
5	REASON FOR REFERRAL	Under part 3 of Schedule 2 of the Local Planning Panels Direction, as the development application seeks a departure from development standards by more than 10%. The existing FSR already exceeds the permitted FSR for the site.
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 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>○ State Environmental Planning Policy (Coastal Management) 2018</li> <li>○ State Environmental Planning Policy (Koala Habitat Protection) 2020</li> <li>○ Wollongong Local Environment Plan 2009</li> </ul> </li> <li>• Wollongong Section 94A Development Contributions Plan</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Wollongong Development Control Plan 2009</li> </ul> </li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: <ul style="list-style-type: none"> <li>○ Clause 92 – demolition and provisions of AS2601</li> <li>○ Clause 94 Consent authority may require buildings to be upgraded</li> <li>○ Clause 168- Fire Safety Schedule</li> </ul> </li> <li>• Coastal zone management plan: <ul style="list-style-type: none"> <li>○ NSW Coastal Management Act 2016 and Wollongong Coastal Zone Management Plan</li> </ul> </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 1 June 2021</li> <li>• Written submissions during public exhibition: eight (8)</li> <li>• Verbal submissions at the public meeting: six (6)</li> </ul>
8	SITE INSPECTIONS BY THE PANEL	<p>Site inspection 1 June 2021. Attendees:</p> <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Robert Montgomery (Chair), Alison McCabe, Steve Fermio, Tina Christy (Community Representative)</li> </ul> <p><u>Council assessment staff</u>: Sharyn Grant / John Wood</p>
9	COUNCIL RECOMMENDATION	Approve
10	DRAFT CONDITIONS	Attached to the council assessment report