

DETERMINATION AND STATEMENT OF REASONS

WOLLONGONG CITY COUNCIL – WOLLONGONG LOCAL PLANNING PANEL (WLPP)

DATE OF DETERMINATION	20 September 2022
PANEL MEMBERS	Alison McCabe (Acting Chair), Helena Miller, Steven Layman, Peter Sarlos (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 20 September 2022 opened at 5:00pm and closed at 5.24pm.

MATTER DETERMINED

DA-2020/1179, Lot 101 DP 1005245 and Lot 1 DP 720027, 138 Windang Road, Windang (as described in detail in schedule 1).

PUBLIC SUBMISSIONS

No public submissions.

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 are as follows

- 1 Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development is inconsistent with the State Environmental Planning Policy (Housing) 2021 with respect to clause 133(a). It is considered that the suitability of the site for long term residence has not been adequately demonstrated.
- 2 In accordance with Section 4.15(1)(a)(i) of the Environmental Planning & Assessment Act 1979, in the opinion of Council, it has not been demonstrated that the land is suitable for the proposed development having regard to Clause 4.6 of State Environmental Planning Policy (Resilience and Hazards) 2021.
- 3 In accordance with Section 4.15(1)(a)(i) of the Environmental Planning & Assessment Act 1979, in the opinion of Council, the development does not adequately respond to the relevant provisions of the Coastal management program that applies to the land under Clause 2.13 of the SEPP (Resilience and Hazards) 2021. Long-term sites are proposed within areas that are subject to tidal inundation risk under the Lake Illawarra Coastal Management Plan 2020.
- 4 In accordance with Section 4.15(1)(a)(i) of the Environmental Planning & Assessment Act 1979, Council cannot be satisfied of the various matters required to be considered, as prescribed by Clause 7.3 – Flood Planning of Wollongong Local Environmental Plan 2009.
- 5 In accordance with Section 4.15(1)(a)(i) of the Environmental Planning & Assessment Act 1979, Council cannot be satisfied of the various matters required to be considered, as prescribed by Clause 7.7 – Foreshore Building Line of Wollongong Local Environmental Plan 2009.
- 6 In accordance with Section 4.15(1)(a)(iii) of the Environmental Planning & Assessment Act 1979, the proposed development does not comply with the provisions of Wollongong Development Control Plan 2009 in a number of areas:

- a The development does not adequately respond to the following provisions of Chapter C4 Caravan Parks:
 - i Clause 6.4 (Minimum Building Line Setbacks to Public Roads, Foreshore Areas and Boundaries to other lots not associated with the Development) - due to sites not complying with the front building line setbacks, boundary setbacks, and setbacks to foreshore areas. The minimum driveway width and internal access roads are also not achieved.
 - ii Clause 6.5 (Community Amenities/Facilities) – due to limited community facilities being available for residents for recreation.
 - iii Clause 6.6 (Car Parking) – in relation to many identified car spaces being undersized.
 - iv Clause 6.7 (Development on Flood Liable land) – in relation to the suitability of the Flood Emergency Response Plan and insufficient information being provided.
 - v Clause 7.4 (Landscaping Plan) – in relation to a landscape plan not being provided.
 - b The development fails to demonstrate compliance with the provisions within Chapter E13 – Floodplain Management, including suitable evacuation strategy and unsuitable residential land use within the high flood risk.
 - c The development does not adequately respond to the provisions of Chapter E14 - Stormwater Management.
 - d The development does not adequately respond to the objectives of Chapter A2 – Ecologically Sustainable Development in that the design, siting and construction of the development should consider the principles of ESD, which includes the objective that developments can adapt to climate change.
- 7 Insufficient information has been provided to enable a full and proper assessment to be carried out. Specifically, the following information requested in Council’s letter dated 23 June 2021 has not been provided:
- a Information addressing flooding matters under Chapter E13;
 - b Plan details including (but not limited to) site levels and floor levels to Australian Height Datum, driveway access dimensions, vehicle entry widths;
 - c Stormwater drainage plan;
 - d Landscape plan;
 - e Waste storage, collection and disposal arrangements;
 - f Plans and detail reflecting the proposed Remedial Works Program.
- 8 In accordance with Section 4.15(1)(e) of the Environmental Planning & Assessment Act 1979, having regard to the above matters, it is considered that in the circumstances of the case, approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.

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



Alison McCabe
(Acting Chair)



Helena Miller



Steven Layman



Peter Sarlos
(Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2020/1179
2	PROPOSED DEVELOPMENT	Continued Use of the South Pacific Caravan Park
3	STREET ADDRESS	138 Windang Road, Windang
4	APPLICANT	Mr Sylvio Pirota C/- The Planning Hub
5	REASON FOR REFERRAL	Under Schedule 2(1)(a) of the Local Planning Panels Direction of 30 June 2020, a portion of the land that the proposed development relates to is Council owned land.
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> · Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Koala Habitat Protection) 2021 ○ State Environmental Planning Policy – (Housing) 2021 ○ Wollongong Local Environment Plan 2009 · Wollongong Development Contributions Plan · Draft environmental planning instruments: None · 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>: 92, 93 and 94 · Local Government (Manufactured Home Estates, Caravan parks, Camping Grounds and Moveable Dwellings) Regulation 2021 · Coastal zone management plan: Wollongong CZMP and Lake Illawarra CMP · 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 20 September 2022 · Written submissions during public exhibition: Nil · Verbal submissions at the public meeting: Nil
8	SITE INSPECTIONS BY THE PANEL	Virtual Site inspection 20 September 2022 Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Acting Chair), Helena Miller, Steven Layman, Peter Sarlos (Community Representative) ○ <u>Council assessment staff</u>: Rebecca Welsh
9	COUNCIL RECOMMENDATION	Refuse
10	DRAFT CONDITIONS	N/A – recommended for refusal for the reasons outlined in Attachment 9