

DETERMINATION AND STATEMENT OF REASONS  
WOLLONGONG CITY COUNCIL – WOLLONGONG LOCAL PLANNING PANEL (WLPP)

DATE OF DETERMINATION	2 July 2020
PANEL MEMBERS	Robert Montgomery (Chair), Mark Carlon, Tina Christy (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 2 July 2020 opened at 5:00pm and closed at 6:44pm.

Declaration of Interest

Sue Hobley declared a conflict of interest in that she was a member of the Design Review Panel which provided commentary on this development. Ms Hobley left the room during the matter and took no part in discussions, deliberations or decision.

MATTER DETERMINED

DA-2019/1008, Lot 1 DP 8441, 1 Smith Street, Wollongong (as described in detail in schedule 1).

PUBLIC SUBMISSIONS

The Panel was addressed by five submitters.

The Panel also heard from the applicant's representatives.

PANEL CONSIDERATION AND DECISION

The Panel considered the matters listed at item 7, the material presented at the meeting and the matters observed at site inspections conducted prior to the application being previously considered by the Panel:

- A. 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* for the following reasons:
1. Having considered the applicant's written request to justify the contravention of the minimum site width development standard, the Panel is not satisfied that it demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of this case. The Panel also considers that there are not sufficient environmental planning grounds to justify contravening the development standard.
  2. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the land does not satisfy the minimum site width requirement in clause 7.14 of Wollongong Local Environmental Plan 2009.
  3. Pursuant to the provisions of Section 4.15 (1)(a)(ii) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not considered to suitably address State Environmental Planning Policy No. 65 Design Quality of Residential Apartment Development with respect to the aims and objectives and Schedule 1 Design quality principles.
  4. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is not considered to achieve design excellence as required by Wollongong Local Environmental Plan 2009, clause 7.18.
  5. Pursuant to the provisions of Section 4.15 (1)(b) of the *Environmental Planning and Assessment Act 1979*, it is considered that the proposed bulk and massing of the development would adversely impact upon streetscape and the character of the adjoining special heritage area.
  6. Pursuant to the provisions of Section 4.15 (1)(b) of the *Environmental Planning and Assessment Act 1979*, it is considered that the development would have an unacceptable impact on the unique view corridor along Harbour Street, particularly in respect of character and streetscape.

7. Pursuant to the provisions of Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, it is considered that the site is not suitable for the development as proposed.
  8. Pursuant to the provisions of Section 4.15 (1)(e) of the Environmental Planning and Assessment Act 1979 it is considered that in the circumstances of the case, approval of the development is not in the public interest.
- B. Pursuant to Section 2.20 (8) of the Environmental Planning and Assessment Act, 1979 the Panel delegates all functions of the Panel to the Manager Development Assessment and Certification should an appeal be lodged.

The decision was unanimous.

#### REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

- The Panel is not satisfied that the applicant has demonstrated that compliance with the minimum lot width development standard is unreasonable and unnecessary in the circumstances of this case. The Panel also considers that there are not sufficient environmental planning grounds to justify contravening the development standard.
- It is acknowledged that the applicant has made some minor alterations to the upper three storeys in response to the previous Panel comments. However, the Panel considers that the alterations made do not achieve the design principle (as previously set out by the Panel) of creating a podium at the fifth level so that the building would sit more comfortably in the context of Harbour Street.
- The triangular shape, small site area and narrow width of the lot, combined with the presence of the adjacent special heritage area, presents significant challenges and constraints to achieving a development of the height and bulk proposed.
- Although the maximum permissible height is 24 metres, it is noted that the site is surrounded on the north, east and south by land with a 16 metre height limit. The subject land is a visually prominent corner site, located on the eastern edge of the 24m height limit. In the circumstances, the Panel considers that any development of this site should be more sympathetic to the surrounding lower scale context and to the nearby heritage items.
- The panel concurs with the Officer's assessment of the application and reasons for refusal.

PANEL MEMBERS	
 Robert Montgomery (Chair)	
 Mark Carlon	 Tina Christy (Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2019/1008
2	PROPOSED DEVELOPMENT	Residential - demolition of existing structures and the construction of and eight (8) storey residential flat building
3	STREET ADDRESS	1 Smith Street, WOLLONGONG
4	APPLICANT	ADM Architects
5	REASON FOR REFERRAL	Development to which SEPP 65 applies. The proposal was referred to the Local Planning Panel for determination on 7 April 2020 and the Panel resolved to defer the application subject to the applicant addressing a number of recommendations
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 (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy No 55 – Remediation of Land</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 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>· 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 2 July 2020.</li> <li>· Written submissions during public exhibition: 20</li> <li>· Verbal submissions at the public meeting: five</li> </ul>
8	SITE INSPECTIONS BY THE PANEL	A site inspection was undertaken by all three Panel members on 7 April 2020: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Robert Montgomery (Chair), Mark Carlon, Tina Christy (Community Representative)</li> <li>○ <u>Council assessment staff</u>: Pier Panozzo, Nigel Lamb</li> </ul>
9	COUNCIL RECOMMENDATION	Refuse
10	DRAFT CONDITIONS	Draft reasons for refusal attached to the council assessment report