

# DETERMINATION AND STATEMENT OF REASONS

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

DATE OF DETERMINATION	17 August 2022
PANEL MEMBERS	Sue Francis (Chair), Steven Layman, Brendan Randles, Trish McBride (Community Representative)

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

### MATTER DETERMINED

DA-2021/1117 - Lot 33 and 34 DP6920, Lot 1 DP 314618, 1-3 Church Street, Wollongong (as described in detail in schedule 1).

### 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 defer 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 Panel deferred this matter on 7 June 2022 for the following reasons:

- *The Panel is not satisfied that the negotiations in relation to the valuation in respect of 5 Church Street and the offers made address the relevant Planning Principle for "Redevelopment -isolation of site by redevelopment of adjacent site(s)". The Panel requires detailed documented and evidence as to the level of negotiation and the reasonableness of offers as well as any relevant planning requirements and the provisions of S79C of the EP&A Act 1979.*
- *The Panel requests the Council to enquire of the neighbour and or representative at 5 Church Street of any documentation they may have relating to the matters discussed in the above dot point. In the absence of documentation, statutory declarations may be provided.*
- *Notwithstanding the above, further consideration should be given to providing more detail to demonstration of the highest and best development that could occur on 5 Church Street in the absence of its consolidation.*
- *In relation to the setbacks at levels 7 and 8 it is considered that greater compliance can be achieved without sacrificing amenity of future residents and neighbours.*

The Panel is satisfied that the negotiations and valuation in respect of 5 Church Street were acceptable. It is also satisfied that 5 Church Street can develop reasonably having regard to the relevant planning controls – as demonstrated by the plans provided.





However, the Panel is not satisfied with the design and detail of level 8. As designed, the Panel considers the enclosure over the private open space associated with the pool area to constitute GFA. The enclosure of this space results in non-compliance with the maximum floor space ratio development standard. No clause 4.6 variation request has been submitted seeking variation to the standard and therefore, the Panel is not empowered to approve the amended application.

Further, the Panel is not satisfied with the bulk and scale of the roof over the level 8 pool area and its enclosing elements. The Panel also considers the pool at level 8 to be inappropriate due to its potential impacts on adjoining property and contribution to bulk and scale. Therefore, the Panel seeks the following:

- 1 The removal of the upper roof.
- 2 The removal of the pool.
- 3 The removal of the enclosures around the pool area which constitute GFA.
- 4 Adjustment of the lower roof to suit with a maximum overhang of 2.4 metres.

The Panel requests amended plans to be produced to address items 1 to 4 above. These plans to be submitted to Council for consideration.

The Panel delegates determination of the application, and the matters identified in 1 to 4 above, to the Manager Development Assessment and Certification under Section 2.20(8) following Council's assessment of the above matters.

PANEL MEMBERS	
 Sue Francis (Chair)	 Steven Layman
 Brendan Randles	 Trish McBride (Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2021/1117
2	PROPOSED DEVELOPMENT	Residential - demolition of existing structures and construction of a residential flat building
3	STREET ADDRESS	1-3 Church Street, WOLLONGONG
4	APPLICANT	PRD Architects
5	REASON FOR REFERRAL	The proposal was referred to the WLPP for determination on 7 June 2022 pursuant to clause 2.19(a) of the Environmental Planning and Assessment Act 1979. Under clause 2(b) and 4(b) of Schedule 2 of the Local Planning Panels Direction, the proposal received over 10 unique objections and is development to which State Environmental Planning Policy 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 City-Wide 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 2000</i>: Clause 92, 93 and 94</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 7 June 2022 and Addendum Report dated 17 August 2022.</li> <li>• Written submissions during original public exhibition: 34</li> </ul>
8	SITE INSPECTIONS BY THE PANEL	Virtual site inspection 7 June 2022. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Sue Francis (Chair), Steven Layman, Brendan Randles, Trish McBride (Community Representative) 7 June 2022</li> <li>○ <u>Panel members</u>: Sue Francis (Chair), Steven Layman, Brendan Randles, Trish McBride (Community Representative)</li> <li>○ <u>Council assessment staff</u>: Nigel Lamb</li> </ul>
9	COUNCIL RECOMMENDATION	Approve
10	DRAFT CONDITIONS	Attached to the council assessment report