

## DETERMINATION AND STATEMENT OF REASONS

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

<b>DATE OF DETERMINATION</b>	7 December 2021
<b>PANEL MEMBERS</b>	Robert Montgomery (Chair), Larissa Ozog, Sue Hobley, Edger du Bois (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 7 December 2021 opened at 5:00pm and closed at 6:46pm.

#### MATTER DETERMINED

DA-2020/1342 – Lot 11 DP 562677 – 404 Princes Highway, Corrimal (as described in detail in schedule 1).

#### PUBLIC SUBMISSIONS

No submitters addressed the Panel.

The Panel heard from the applicants and their representative.

#### 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 height of buildings development standard and is not satisfied that it demonstrates that compliance with the development standard and is unreasonable and unnecessary in the circumstances of this case. The Panel is also not satisfied that there are sufficient environmental planning grounds to justify contravening the development standard.

The Panel considered the Applicant's request to defer the application for the opportunity to address issues relating to flooding and design. The Panel was of the opinion that the development required more substantial changes and ample opportunity was provided through the assessment process.

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. The proposal fails to satisfy Clause 4.3 of the WLEP 2009 as the proposed exceedance in the height is considered to be unreasonable and unnecessary and fails to satisfy the objectives of the building height control.
3. The proposal fails to adequately address the issue of flooding, flood impacts and potential implications to overland flow paths. Inadequate information has been provided in respect to flood storage, flood management and stormwater arrangement.
2. The site planning of the development and its internal layout is considered to be a poor planning and design outcome, particularly in relation to the driveway location, communal private open space, window openings to some rooms, bin storage location and arrangement and the lift lobby design and location. This adversely affects the overall functionality and amenity of the development and the internal amenity of spaces.
3. The proposed scale, height and built form as proposed is considered to be unsuitable for the subject site and an overdevelopment of the site and will establish an undesirable precedent.
4. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposal fails to demonstrate consistency with Wollongong Local Environmental Plan 2009:
  - Clause 1.2 Aims of the Plan — (2)(c) and (2)(g)

- Clause 1.9 Application of SEPPs
  - Clause 4.3 Height of buildings
  - Clause 5.21 Flood Planning
  - Clause 7.7 Foreshore building line
5. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act, 1979, the proposal fails to demonstrate consistency with SEPP 65 in that the development fails to meet the Design Quality Principles and the Apartment Design Guide.
  6. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposal fails to demonstrate consistency with the provisions of Wollongong Development Control Plan 2009, including:
    - Chapter B1: Residential Development
    - Chapter E02: Crime Prevention Through Environmental Design
    - Chapter E13: Floodplain Management
    - Chapter E17: Preservation and Management of Trees and Vegetation;
  7. Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act, 1979, the proposal fails to demonstrate that the likely impacts will not be adverse on the natural and built environments due to the excessive bulk and scale, vegetation removal and flood affectation on site.
  8. Pursuant to the provisions of Section 4.15 (1)(c) of the Environmental Planning and Assessment Act, 1979, the proposal fails to demonstrate the site is suitable for the development.
  9. Pursuant to the provisions of Section 4.15 (1) (d) and (e) of the Environmental Planning and Assessment Act, 1979, it is considered that with submissions received and in the circumstances of the case, approval of the development would not be 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.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

- The Panel concurred with the officer's assessment report and recommendation and added some additional reasons for its decision to refuse the application.
- Compliance with the Apartment Design Guide is considered a minimum requirement for development of this nature. The proposal fails to satisfy a number of design criteria and agrees with the Wollongong Design Review Panel's report that the internal layout, circulation and amenity of units and the proposed communal private open space is sub-standard.
- It has been demonstrated by the Design Review Panel advice and the officer's assessment that the design simply fails to adequately address the constraints of the site and achieve design excellence.
- The proposed built form outcome is considered inappropriate, given the site's constraints and the opportunities it offers.

PANEL MEMBERS



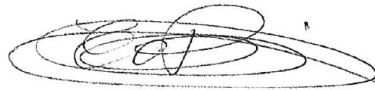
Robert Montgomery  
(Chair)



Larissa Ozog



Sue Hobley



Edger du Bois  
(Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2020/1342
2	PROPOSED DEVELOPMENT	Residential - demolition of existing structures, tree removals and construction of a residential flat building comprising 14 units with associated basement carparking, landscaping and services infrastructure
3	STREET ADDRESS	404 Princes Highway, CORRIMAL NSW 2518 Lot 11 DP 562677
4	APPLICANT	The View North Beach Pty Ltd
5	REASON FOR REFERRAL	Pursuant to part 2(b) of Schedule 2 of the Local Planning Panels Direction as the application is the subject of 10 or more unique submissions by way of objection and part 3 the proposal contravenes a development standard imposed by a Local Environmental Plan by more than 10%
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 No 65 – Design Quality of Residential Flat Development</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>○ SEPP (Koala Habitat Protection) 2021</li> <li>○ SEPP (Coastal Management) 2018</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>• Draft environmental planning instruments: <ul style="list-style-type: none"> <li>○ Draft Remediation of Land SEPP</li> <li>○ Draft Environment SEPP</li> <li>○ Draft Design and Place SEPP</li> <li>○ Draft Housing SEPP</li> </ul> </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 7 December 2021</li> <li>• Written submissions during public exhibition: 11</li> <li>• Verbal submissions at the public meeting: Nil</li> </ul>
8	SITE INSPECTIONS BY THE PANEL	Virtual Site inspection 7 December 2021. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Robert Montgomery (Chair), Larissa Ozog, Sue Hobley, Edger du Bois (Community Representative)</li> <li>○ <u>Council assessment staff</u>: Brigit Mathai, John Wood</li> </ul>
9	COUNCIL RECOMMENDATION	Refuse
10	DRAFT CONDITIONS	Attached to the council assessment report