

## DETERMINATION AND STATEMENT OF REASONS

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

<b>DATE OF DETERMINATION</b>	19 July 2022
<b>PANEL MEMBERS</b>	Stephen Davies (Chair), Larissa Ozog, Tina Christy, Edger du Bois (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 19 July 2022 opened at 5:00pm and closed at 5:57pm.

#### MATTER DETERMINED

DA-2021/1308 – Lot 3 DP 37711, 30 Bourke Street, Wollongong (as described in detail in schedule 1).

#### PUBLIC SUBMISSIONS

No submitters addressed the meeting.

The Panel heard from the applicant's representatives being the Architect and Town Planning Consultant.

#### 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* subject to the following amended reasons for refusal:

1. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal does not satisfy the design quality principles of Schedule 1 of State Environmental Planning Policy No.65 - Design Quality of Residential Apartment Development.
2. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposal does not satisfy the relevant design criteria objectives and controls of the Apartment Design Guide, particularly in regard to communal open space, visual privacy, solar and daylight access; apartment size and layout; acoustic privacy; ground level apartments and universal design.
3. Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, in the opinion of Council, the proposed development does not exhibit design excellence and therefore consent cannot be granted pursuant to Clause 7.18 of Wollongong Local Environmental Plan 2009.
4. 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:
  - Clause 2.2 of Chapter D13 in relation to street setbacks, with regard to the fire egress stair;
  - Clause 2.5 of Chapter D13 in relation to setbacks/ building separation, particularly with regard to setbacks to the ground level terraces of Units 1 and 2 from the northern boundary;
  - Clause 5.2 of Chapter D13 - energy efficiency and conservation - in relation to the noncompliant unit depth (required by the Apartment Design Guide) not reducing the necessity for mechanical heating and cooling;
  - Clause 6.6 Basement Carparks - in relation to the height of the basement roof and its setback to the northern boundary of the site.





5. Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the proposal is unacceptable with regard to potential visual and acoustic privacy impacts.
6. Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the design of the development is unacceptable with regard to the placement and form of the fire egress stair; the pedestrian entry way is confusing and unresolved; there are numerous privacy screens, the effectiveness of which is questioned given their design; and the relationship between the terrace of Unit 2 and the driveway entry ramp is poor and requires resolution.

The decision was unanimous

### REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

- The Panel felt that the built form and internal layout could be better resolved through simplification of the design and architectural treatments. This should enable the building to comply with ADG principles and controls and improve the internal functionality and amenity of the units.
- This could include a reduced basement and building footprint to enable an improved interface between the development and adjoining building to the north.
- The vehicle ramp and associated driveway podium and its connection and relationship to the ground floor units, private open space and landscaping requires further refinement and improvement.
- The Panel considers there is a requirement for further communal open space.
- The Panel considers that the fire egress facing Bessell Avenue should be reconfigured to be better integrated within the building and landscaped area.
- The Panel has concerns about the relationship of the proposed building to the neighbouring property to the north in relation to privacy and amenity.
- The Panel was not particularly concerned with the degree of non-compliance in height given the extent of variation and the fact it does not affect any habitable areas and the view loss by the exceedance is not considered significant hence the Clause 4.6 is considered reasonable in this case and well-founded.
- The Panel also considered that the proposed basement parking arrangement and design was acceptable and numerically the provision of parking was compliant providing for some larger car parking spaces within the basement. The parking layout, design and configuration as proposed in the plans did not seem unreasonable given the development provides for larger apartments.
- The Panel made the following notes;
  1. *Design changes could be considered as part of a Section 8.2A Review.*
  2. *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	
 Stephen Davies (Chair)	 Larissa Ozog
 Tina Christy	 Edger du Bois (Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2021/1308
2	PROPOSED DEVELOPMENT	Demolition of existing structures, construction of a five (5) storey residential flat building comprising 13 residential units over two (2) levels of basement car parking
3	STREET ADDRESS	30 Bourke Street, North Wollongong - Lot 3 DP 37711
4	APPLICANT/OWNER	Applicant PRD Architects; Owner G Cambridge and J Buchan
5	REASON FOR REFERRAL	Pursuant to Clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979; under Clause 4 of Schedule 2 of the Local Planning Panels Direction of 30 June 2020, the proposed development constitutes a residential flat building of 4 or more storeys to which SEPP 65 applies necessitating determination by the LPP.
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 &amp; Hazards) 2021</li> <li>○ State Environmental Planning Policy 65 - Design Quality of Residential Apartment Development</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>○ State Environmental Planning Policy (Transport &amp; Infrastructure) 2021</li> <li>○ State Environmental Planning Policy (Koala Habitat Protection) 2021</li> <li>○ Wollongong Local Environment Plan 2009</li> </ul> </li> <li>• Other Policies <ul style="list-style-type: none"> <li>○ NSW Apartment Design Guide</li> <li>○ Wollongong City Wide Contributions Plan 2021</li> </ul> </li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Wollongong Development Control Plan 2009.</li> </ul> </li> <li>• Provisions of the Environmental Planning and Assessment Regulation 2000: Clause 61 - consideration to be given to AS 2601—2001: <i>The Demolition of Structures</i> in relation to any demolition works.</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 19 July 2022</li> <li>• Written submissions during public exhibition: four (4)</li> <li>• Verbal submissions at the public meeting: Nil</li> </ul>
8	SITE INSPECTIONS BY THE PANEL	Virtual Site inspection 19 July 2022. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Stephen Davies (Chair), Larissa Ozog, Tina Christy, Edger du Bois (Community Representative)</li> <li>○ <u>Council assessment staff</u>: Theresa Whittaker (Senior Development Project Officer), Pier Panozzo (City Centre &amp; Major Development Manager)</li> </ul>

<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Refuse
<b>10</b>	<b>DRAFT CONDITIONS</b>	N/A