

DETERMINATION AND STATEMENT OF REASONS

WOLLONGONG CITY COUNCIL – WOLLONGONG LOCAL PLANNING PANEL (WLPP)

DATE OF DETERMINATION	30 August 2022
PANEL MEMBERS	Robert Montgomery (Chair), Steve Fermio, Helena Miller, Trish McBride (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 30 August 2022 opened at 5:10 pm and closed at 6:18pm.

MATTER DETERMINED

DA-2021/776 - Lot 220 DP 1114277, Lot B DP 163980, Lot 2 DP 157440, 178-182 Princes Highway, Dapto (as described in detail in schedule 1).

PUBLIC SUBMISSIONS

No submitters addressed the Panel.

The Panel heard from the applicant and their representatives.

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*, for the reasons contained within the Officer's report.

The decision was unanimous.

REASONS FOR THE DECISION





The reasons for the decision of the Panel were:

- The Panel concurs with the Officer's recommendation.
- The Panel is concerned that the acoustic report submitted with the application understates the potential noise impacts of the proposal to residential receivers and has some inconsistencies with the DA plans. The following observations are made in this regard:
 - The unattended monitoring location L1 (Figure 1 of the MAC report), used to establish the existing background noise levels, is located under a tree within the proposal site and approximately 80m from the façade of the nearest residential premises. This is not consistent with the EPA's Noise Policy for Industry. As the boundary fences of residences R9 and R10 would provide some attenuation of the Princes Highway traffic noise, the noise monitor should have been located on the western (ie residence) side of the fence, unless this was not possible due to residence concerns or other factors which are not stated in the MAC report. The Policy also states that noise loggers used to establish the background noise levels should be sited as far away from trees as practicable to avoid noise produced by wind blowing through foliage, unless this is representative of the receiver location - which is not the case for most of the sensitive receivers shown on Figure 1.
 - The MAC report assigns a sound power level of 77dB LA_{eq(15min)} to the car wash system (Table 13 of the report). As there is no source or reference provided for this level it is unclear if it is based on manufacturers specifications, operating assumptions or monitoring results from other similar systems. This sound power level seems low compared to other results that are

publicly available. Furthermore, it is unclear in the MAC report as to whether the car wash will be operated with closed entry and exit doors.

- The MAC report states that the vacuum bay will be fully enclosed on the east and west facades, however the plans provided in the MAC report do not show this, nor do the plans in Council's assessment report, in fact, the latter plans show no such enclosure.
- The noise attenuation recommendations in the MAC report state that a 1.6m fence / barrier on the western boundary of the development will be constructed (Figure 3 of the MAC report), however the General Site Plan in Council's assessment report shows a 1800mm high acoustic fence.
- Due to the concerns raised above, the Panel is not satisfied that the impact on amenity of nearby residences will be acceptable.

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	
 Robert Montgomery (Chair)	 Steve Fermio
 Helena Miller	 Trish McBride (Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2021/776
2	PROPOSED DEVELOPMENT	Demolition of existing structures and tree removals, construction of a service station, carwash, signage and convenience store - 24/7 operation
3	STREET ADDRESS	178 - 182 Princes Highway Dapto NSW 2530
4	APPLICANT OR OWNER	KDC 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.
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 (Industry and Employment) 2021 ○ Wollongong Local Environment Plan 2009 · Development control plans: <ul style="list-style-type: none"> ○ Wollongong Development Control Plan 2009 · 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 30 August 2022 · Written submissions during public exhibition: 14 · Verbal submissions at the public meeting: Nil · Verbal submissions from applicant's representatives.
8	SITE INSPECTIONS BY THE PANEL	Virtual Site inspection 30 August 2022. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Robert Montgomery, Steve Fermio, Helena Miller, Trish McBride (Community Representative) ○ <u>Council assessment staff</u>: John Wood, Brigit Mathai
9	COUNCIL RECOMMENDATION	Refuse
10	DRAFT CONDITIONS	Attached to the council assessment report