

## DETERMINATION AND STATEMENT OF REASONS

WOLLONGONG CITY COUNCIL – WOLLONGONG LOCAL PLANNING PANEL (WLPP)

<b>DATE OF DETERMINATION</b>	23 February 2023
<b>PANEL MEMBERS</b>	Robert Montgomery (Chair), Steve Layman, Mark Carlon, Trish McBride (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 23 February 2023 opened at 5:00pm and closed at 6:04pm.

### MATTER DETERMINED

DA-2022/320 – Lot 78 DP 13047, Lot 79 DP 13047, 17-19 Gladstone Avenue, Wollongong (as described in detail in schedule 1).

### PUBLIC SUBMISSIONS

No one addressed the Panel.

### 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 building separation development standard contained within Clause 8.6 of Wollongong LEP 2009. The Panel is not satisfied that the applicant's request has adequately addressed the matters required to be demonstrated by Clause 4.6 of that Plan, and is not satisfied and the proposed development would be in the public interest.

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 in the Officer's report.

The decision was unanimous.

The Panel was informed that the applicant has lodged an appeal to the Land and Environment Court based on the deemed refusal of the application. All functions of the Panel in relation to the Land and Environment Court Appeal are delegated to the Manager Development Assessment and Certification, pursuant to Section 2.20 (8) of the *Environmental Planning and Assessment Act, 1979*.

### REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

- The Panel concurs with the Officer's assessment and recommendation.
- The Panel was particularly concerned that the development is partially sited in a floodway, which will exacerbate the impacts of flooding on other properties and raises potential public safety issues.

PANEL MEMBERS



Robert Montgomery  
(Chair)



Steve Layman



Mark Carlon



Trish McBride  
(Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2022/320
2	PROPOSED DEVELOPMENT	Residential - demolition of existing structures, construction of 9 storey building consisting of 35 units, basement parking, swimming pool and associated communal spaces
3	STREET ADDRESS	17-19 Gladstone Avenue, Wollongong
4	APPLICANT	Design Workshop Australia /
5	REASON FOR REFERRAL	The proposal has been referred to Local Planning Panel pursuant to clause 2.19(1)(a) of the Environmental Planning and Assessment Act 1979. Under Schedule 2 (4)(b) of the Local Planning Panels Direction of 30 June 2020, the proposal is development to which State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development applies. Additionally, under Schedule 2(b) the development is the subject of 10 or more unique submissions.
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 (Transport and Infrastructure) 2021</li> <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 Development Contributions Plan</li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Wollongong Development Control Plan 2009</li> </ul> </li> <li>• Planning agreements: None</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Clause 61 Additional matters that consent authority must consider in relation to demolition works.</li> <li>• Coastal zone management plan: N/A – the site is not within the coastal zone</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 23 February 2023</li> <li>• Written submissions during public exhibition: ten (10)</li> <li>• Verbal submissions at the public meeting: Nil</li> </ul>
8	SITE INSPECTIONS BY THE PANEL	<p>Site inspection 23 February 2023. Attendees:</p> <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Robert Montgomery (Chair), Steve Layman, Mark Carlon. Trish McBride (Community Representative)</li> <li>○ <u>Council assessment staff</u>: Rebecca Welsh, Andrew Heaven, Pier Panozzo</li> </ul>

<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Refuse
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report