

DETERMINATION AND STATEMENT OF REASONS

WOLLONGONG CITY COUNCIL – WOLLONGONG LOCAL PLANNING PANEL (WLPP)

DATE OF DETERMINATION	13 July 2021
PANEL MEMBERS	Sue Francis (Chair), Brendan Randles, Larissa Ozog, Trish McBride (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 13 July 2021 opened at 5:00pm and closed at 7:13pm.

MATTER DETERMINED

DA-2021/286 – Lot 1000 DP 1169057, 44-46 Hopetoun Street, Woonona (as described in detail in schedule 1).

PUBLIC SUBMISSIONS

The Panel was addressed by thirteen submitters.

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*.

The decision was unanimous

REASONS FOR THE DECISION

The reasons for the decision were that the Panel considered the design, orientation, functionality of the development and its relationship to adjoining land uses to be unacceptable and the panel accepts the recommendation of staff to refuse the application and defend the appeal accordingly.

A The Panel recommends the following reasons for refusal:

- 1 Pursuant to the provisions of Section 4.15 (1)(a)(ii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the provisions of the State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 in relation to but not excluding Site selection and suitability, compatibility with adjoining uses, compatibility with the existing streetscape and character of the area, delineation of spaces and safety of use, orientation of the development, safety in the parking area, privacy and amenity impacts on adjoining owners
- 2 Pursuant to the provisions of Section 4.15 (1)(a)(i) of the Environmental Planning and Assessment Act 1979, the proposed development is unsatisfactory in respect of Wollongong Local Environmental Plan 2009 Clause 7.3 Flood Planning Area in that the proposal does not satisfy the objectives or requirements of clause 7.3(1),(3) in that it is not compatible with and detrimentally impacts flow of conveyance and function. It results in unacceptable flood impacts within and off the site and does not enable safe evacuation from the land.
- 3 Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, the proposed development does not satisfy the provisions of Wollongong Development Control Plan 2009 in respect to:
 - Chapter A2 Ecologically Sustainable Development
 - Chapter B4 Development in Business Zones

- Chapter C5 Child care Centres
- Chapter E2 Crime Prevention Through Environmental Design
- Chapter E3 Car Parking Access Servicing Loading Facilities
- Chapter E6 Landscaping
- Chapter E11 Heritage Conservation
- Chapter E13 Floodplain Management
- Chapter E14 Stormwater Management
- Chapter E17 Preservation and Management of Trees and Vegetation

4 Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development fails to demonstrate the acceptable disposal of stormwater from the subject property.

5 Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in height, bulk and scale and is sited and orientated such that it would adversely impact upon the amenity of adjacent properties and the locality.

6 Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development would adversely impact upon the streetscape and character of the area.

7 Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development does not demonstrate that the likely impacts on the heritage significance of adjacent heritage items will not be adverse.

8 Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development fails to demonstrate that the likely impacts on existing trees will not be adverse.

9 Pursuant to the provisions of Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development fails to demonstrate the site is suitable due to flooding issues.

10 Pursuant to the provisions of Section 4.15 (1)(c) of the Environmental Planning and Assessment Act 1979, the proposed development fails to demonstrate the site is suitable due to vehicular / pedestrian access issues.

B Pursuant to Section 2.20(8) of the Environmental Planning and Assessment Act, 1979 the Panel delegates all functions of the Panel to the Manager Development Assessment and Certification in relation to the Appeal which has been lodged by the applicant.

PANEL MEMBERS



Sue Francis
(Chair)



Brendan Randles



Larissa Ozog



Trish McBride
(Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2021/286
2	PROPOSED DEVELOPMENT	Business premises - demolition of existing carpark, construction of a 117 place child care centre and parking for 82 cars
3	STREET ADDRESS	44-46 Hopetoun Street Woonona Lot 1000 DP 1169057
4	APPLICANT/OWNER	Zaki Property
5	REASON FOR REFERRAL	Under Schedule 2 of the Local Planning Panels Direction of 1 March 2018, the proposal is contentious development as it subject to more than ten (10) unique submissions by way of objection.
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • State Environmental Planning Policies: <ul style="list-style-type: none"> ○ SEPP No. 55 – Remediation of Land ○ State Environmental Planning Policy (Koala Habitat Protection) 2020 ○ SEPP (Educational Establishments and Child Care Facilities) 2017 • Local Environmental Planning Policies: <ul style="list-style-type: none"> ○ Wollongong Local Environmental Plan (WLEP) 2009 • Development Control Plans: <ul style="list-style-type: none"> ○ Wollongong Development Control Plan (WDCP) 2009 • Other policies: <ul style="list-style-type: none"> ○ Wollongong City-Wide Development Contributions Plan 2020 (section 7.12 of EP&A Act 1979) ○ Wollongong Community Participation Plan 2019 ○ Child Care Planning Guideline • 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 13 July 2021 • Written submissions during public exhibition: 111 • Verbal submissions at the public meeting: 13
8	SITE INSPECTIONS BY THE PANEL	Virtual site inspection 13 July 2021. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Sue Francis (Chair), Brendan Randles, Larissa Ozog, Trish McBride (Community Representative) ○ <u>Council assessment staff</u>: Kristy Robinson
9	COUNCIL RECOMMENDATION	Refuse
10	REASONS FOR REFUSAL	Stated in the Panel's decision