

## DETERMINATION AND STATEMENT OF REASONS

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

DATE OF DETERMINATION	4 December 2019
PANEL MEMBERS	Alison McCabe (Chair), Helena Miller, Scott Lee, Bernard Hibbard (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 4 December 2019 opened at 5:00pm and closed at 9:00pm.

#### MATTER DETERMINED

DA-2019/644 – Lot 2 DP 578279, 222-226 Lawrence Hargrave Drive, Thirroul (as described in detail in schedule 1).

#### PUBLIC SUBMISSIONS

The Panel requested that submissions on Items 2 and 3 be made together. The Panel was addressed by eleven submitters.

The Panel also 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*.

The decision was unanimous.

#### REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

1. The Panel was not satisfied that the intensity of and nature of the current operation was appropriate for the site given the impacts on surrounding properties.
2. The Panel notes that the site is in a residential zone and that the proposed development was reliant upon existing use rights. The Panel was not sufficiently persuaded that the development, as proposed, could maintain residential amenity.
3. The Panel notes that the property has been operating unlawfully for approximately 2.5 years.

PANEL MEMBERS



Alison McCabe (Chair)



Helena Miller



Scott Lee



Bernard Hibbard (Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2019/644
2	PROPOSED DEVELOPMENT	Business Premises - Use of cafe/ restaurant
3	STREET ADDRESS	222-226 Lawrence Hargrave Drive Thirroul
4	APPLICANT	MMJ Wollongong
5	REASON FOR REFERRAL	The proposal is contentious development under Schedule 2 of the Local Planning Panels Direction of 1 March 2018, having received ten unique submissions by way of objection.
6	RELEVANT MANDATORY CONSIDERATIONS	<ol style="list-style-type: none"> <li>4. Environmental planning instruments: <ul style="list-style-type: none"> <li>o State Environmental Planning Policy No 55 – Remediation of Land</li> <li>o State Environmental Planning Policy (Coastal Management) 2018</li> <li>o Wollongong Local Environment Plan 2009</li> </ul> </li> <li>5. Wollongong Section 94A Development Contributions Plan</li> <li>6. Development control plans: <ul style="list-style-type: none"> <li>o Wollongong Development Control Plan 2009</li> </ul> </li> <li>7. Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Clauses 41 and 45 and Clause 93</li> <li>8. Coastal zone management plan: Wollongong Coastal Zone Management Plan</li> <li>9. 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>10. The suitability of the site for the development</li> <li>11. Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>12. The public interest, including the principles of ecologically sustainable development</li> </ol>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>· Council assessment report dated 4 December 2019.</li> <li>· Written submissions during public exhibition: ten</li> <li>· Verbal submissions at the public meeting: eleven</li> </ul>
8	SITE INSPECTIONS BY THE PANEL	<p>Site inspection 4 December 2019. Attendees:</p> <ul style="list-style-type: none"> <li>o <u>Panel members</u>: Alison McCabe (Chair), Helena Miller, Scott Lee, Bernard Hibbard (Community Representative).</li> <li>o <u>Council assessment staff</u>: John Wood, Nicole Ashton, Andrew Heaven, Suri Mora, Mathew Carden</li> </ul>
9	COUNCIL RECOMMENDATION	Refuse
10	DRAFT REASONS FOR REFUSAL	Included in the Council assessment report