

DETERMINATION AND STATEMENT OF REASONS

WOLLONGONG CITY COUNCIL – WOLLONGONG LOCAL PLANNING PANEL (WLPP)

DATE OF DETERMINATION	27 November 2018
PANEL MEMBERS	Sue Francis (Chair), Steve Fermio, Glenn Falson, Robyn Deards (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 27 November 2018 opened at 5:00pm and closed at 5:50pm.

MATTER DETERMINED

DA-2018/914 – Lot 41 DP 10972, 13 Pass Avenue, Thirroul and Lot 401 DP 777843, 15A Pass Avenue Thirroul (as described in detail in schedule 1).

PUBLIC SUBMISSIONS

The Panel was addressed by four submitters who had concerns with the increased density, the height of the building, vehicle movement and garbage.

The Panel also heard from the applicant's planner and designer.

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 was concerned about the Torrens Subdivision of the created attached dual occupancies pursuant to clause 4.1 (4C) of the WLEP in that the Panel interprets this clause as referring to dual occupancies that existed prior to the gazettal of the LEP; assuming that they were dual occupancy developments on lots of 600 square metres rather than 450 square metres. However, the Panel has received advice from Council's lawyer that states that this is not the correct interpretation of the Clause and so long as the dual occupancy exists prior to subdivision, it is lawful.

As to merits, the site has a sub-surface drainage culvert running approximately 12 metres into the site from Pass Avenue. This has resulted in the built form being pushed back behind the culvert and limiting the rear landscaped area for A1 and A2 and which is significantly overshadowed by the buildings themselves

A1 and A2 also overshadow the garden of B1 and B2 by approximately 50% in mid winter.

The garages/carports of B1 and B2 are also setback 5.5 metres from the Gum Tree Lane as required by Council's engineers (but notably not required for the house at 16 Gum Tree Lane).

The proposal has also not sufficiently addressed section 4.21 of the Development Control Plan which suggests that dual occupancies are not acceptable on constrained sites.

Accordingly, the Panel considers the proposal as submitted as overdevelopment of the site but is of the view that amendments may be able to address the concerns raised.

The Panel therefore defers the determination of the application so that amended plans can be submitted to address the following issues:

- consideration be given to alter the development to a single dwelling development only fronting Gum Tree Lane and address buildings A1 and A2 as follows:
 - a move buildings B1 and B2 (or a single dwelling development) further to the south;
 - b reduce the size of B1 and B2 so that only one car parking space is required which could ideally be located in a carport to allow for visibility.

- c move buildings A1 and A2 forward to the street. Either relocate the parking north of the culvert or relocate the culvert.
- d increase the landscape area behind the buildings to minimum of 50%.

The above suggested amendments are not all that may be required to address the concerns of over development and discussion with Council officers, particularly Council's engineers, should occur before submitting amended plans.

Amended plans should be assessed and then reported back to the Panel for determination.

The Panel also requests that Council consider the implications of clause 4.1 (4C) of the LEP which apparently allows Torrens Subdivision to a minimum of 225 square metres. This then triggers CDC provisions of several SEPPs, notably secondary dwellings. If this was not the intent of this clause, Council may want to review the provision.

The Panel determined to defer 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:

- As proposed the development is an over development of the site.
- The site is constrained by slope, floodplain, stormwater easement and access.
- A significantly reduced and amended scheme may address these concerns.

PANEL MEMBERS



Sue Francis
(Chair)



Steve Fermio



Glenn Falson



Robyn Deards
(Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2018/914
2	PROPOSED DEVELOPMENT	Residential - demolition of existing buildings and outbuildings, tree removals and Subdivision - Torrens title - two (2) lots. Construction of dual occupancy on each lot and Subdivision - Torrens title - two (2) residential lots from each lot.
3	STREET ADDRESS	13 Pass Avenue Thirroul 15A Pass Avenue Thirroul
4	APPLICANT	Develop My Land
5	REASON FOR REFERRAL	Section 2(b) of Schedule 2 of the Local Planning Panels Direction of 1 March 2018, as the application is the subject of 10 or more unique submissions by way of objection.
6	RELEVANT MANDATORY CONSIDERATIONS	<p>Environmental planning instruments:</p> <p>State Environmental Planning Policies:</p> <ul style="list-style-type: none"> • SEPP No. 55 – Remediation of Land • SEPP BASIX (Building Sustainability Index: BASIX) 2004 • SEPP (Vegetation in Non-Rural Areas) 2017 <p>Local Environmental Planning Policies:</p> <ul style="list-style-type: none"> • Wollongong Local Environmental Plan (WLEP) 2009 <p>Development Control Plans:</p> <ul style="list-style-type: none"> • Wollongong Development Control Plan 2009 <p>Other policies</p> <ul style="list-style-type: none"> • Wollongong City-Wide Development Contributions Plan 2018 <p>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p> <ul style="list-style-type: none"> • 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 27 November 2018 • Written submissions during public exhibition: 18 submissions (first round), 11 submissions (second round) • Verbal submissions at the public meeting: [Insert number]
8	SITE INSPECTIONS BY THE PANEL	<p>Site inspection – 27 November 2018. Attendees:</p> <ul style="list-style-type: none"> ○ <u>Panel members</u>: Sue Francis (Chair), Steve Fermio, Glenn Falson, Robyn Deards (Community Representative) ○ <u>Council assessment staff</u>: John Wood, Kristy Robinson
9	COUNCIL RECOMMENDATION	Approve
10	DRAFT CONDITIONS	Attached to the council assessment report