

# DETERMINATION AND STATEMENT OF REASONS

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

DATE OF DETERMINATION	9 August 2022
PANEL MEMBERS	Sue Francis (Chair), Sue Hobley, Scott Lee, Bernard Hibbard (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 9 August 2022 opened at 5:00pm and closed at 5:45pm.

### MATTER DETERMINED

DA-2021/1438 – Lot 14 DP 1164638, 5 Blackwattle Place, Berkeley (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 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:

- The proposed development breaches the floor space ratio development standard and no clause 4.6 variation was submitted seeking that variation. As a consequence, the Panel has no power to determine the application other than a refusal.
- Notwithstanding the above, there are a number of unacceptable amenity and environmental impacts as a consequence of this application and the Council's assessment and recommendation for refusal is supported.
- Further, the Panel is unclear as to whether there is sufficient head room in relation to the stairs and access to the bedroom wing.

PANEL MEMBERS



Sue Francis  
(Chair)



Sue Hobley



Scott Lee



Bernard Hibbard  
(Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2021/1438
2	PROPOSED DEVELOPMENT	Alterations and additions to dwelling, including swimming pool
3	STREET ADDRESS	5 Blackwattle Place, Berkeley NSW 2506
4	APPLICANT	Mr Abraham Nemra
5	REASON FOR REFERRAL	The proposal has been referred to the Wollongong Local Planning Panel (WLPP) for determination pursuant to Section 3 of Schedule 2 of the Local Planning Panels Direction of 30 June 2020, as the proposed development contravenes a development standard imposed by an environmental planning instrument by more than 10% or non-numerical development standards.
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 (Building Sustainability Index: BASIX) 2004</li> </ul> </li> <li>• Wollongong Section 94A Development Contributions Plan</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Wollongong Development Control Plan 2009</li> </ul> </li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: <ul style="list-style-type: none"> <li>○ Clause 61 – Additional matters that consent authority must consider</li> </ul> </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 9 August 2022</li> <li>• Written submissions during public exhibition: Nil</li> <li>• Verbal submissions at the public meeting: Nil</li> </ul>
8	SITE INSPECTIONS BY THE PANEL	Virtual Site inspection 9 August 2022. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Sue Francis (Chair), Sue Hoble, Scott Lee, Bernard Hibbard (Community Representative)</li> <li>○ <u>Council assessment staff</u>: Evan Fitzsimmons (SDPO), Darren Burke (Building &amp; Certification Manager) &amp; Mark Adamson (Manager Development Assessment &amp; Certification)</li> </ul>
9	COUNCIL RECOMMENDATION	Refuse
10	DRAFT REFUSAL REASONS	Attached to the council assessment report