

DETERMINATION AND STATEMENT OF REASONS

WOLLONGONG CITY COUNCIL – WOLLONGONG LOCAL PLANNING PANEL (WLPP)

DATE OF DETERMINATION	8 March 2022
PANEL MEMBERS	Robert Montgomery (Chair), Helena Miller, Larissa Ozog, Peter Sarlos (Community Representative)

Public meeting held at Wollongong City Council, Level 9 Function Room, 41 Burelli Street, Wollongong on 8 March 2022 opened at 5:00pm and closed at 7:07pm.

MATTER DETERMINED

DA-2021/796 – Lot 16 DP 285763, 2 Weaver Terrace, Bulli (as described in detail in schedule 1).

PUBLIC SUBMISSIONS

The Panel was addressed by three (3) submitters.

The Panel heard from the applicant and his 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 has considered the applicant's written request to justify the contravention of the Floor Space Ratio development standard and is not satisfied that it demonstrates that compliance with the development standard is unreasonable and unnecessary in the circumstances of this case. The Panel also considers that there are not sufficient environmental planning grounds to justify contravening the development standard. The Panel considers that proposed development will not be in the public interest because it is not consistent with the objectives of the relevant development standard and the objectives of the relevant zone.

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*, for the following reasons:
 1. Pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, it is considered that the proposed development exceeds the maximum permissible Floor Space Ratio (FSR) of 0.50:1 as prescribed by Part 4.4 – Floor Space Ratio, Wollongong Local Environmental Plan 2009, and is contrary to the objectives of this clause, as:
 - a) The proposal does not provide an appropriate correlation between the size of the site and the extent of the development on the site,
 - b) The bulk, scale and form of the proposed development is not compatible with the locality.
 2. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the bulk, scale and form of the proposed development is inconsistent with the objectives of the Wollongong Development Control Plan 2009, Chapter B1 *Residential Development*, Clause 4.8 – Building Character and Form.
 3. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, it is considered that the significant bulk and scale of the proposed development is inconsistent with the desired future character of Bulli, as prescribed by Wollongong Development Control Plan 2009, Chapter D1 *Character Statements*, of Clause 3.15 – Bulli.
 4. Pursuant to the provisions of Section 4.15 (1)(b) of the Environmental Planning and Assessment Act 1979, the proposed development is excessive in bulk and scale, is inconsistent with the established streetscape character and would likely adversely impact upon the amenity of the locality.

5. Pursuant to the provisions of Section 4.15(1)(d) & (e) of the Environmental Planning and Assessment Act 1979, it is considered that approval of the development would set an undesirable precedent for similar inappropriate development and is therefore not in the public interest.
 6. The proposed development fails to satisfy the objectives and provisions for development near the coastline as outlined in Section 4.15, Part B1 (Residential Development) of the Wollongong DCP 2012 by way of the proposed design, mass, scale and siting of the proposed alterations and additions.
 7. The proposed development fails to satisfy the objectives and provisions of Section 4.16, Part B1 (Residential Development) of the Wollongong DCP 2012 in respect to view loss and view sharing. The view loss analysis prepared and submitted to Council fails to address the planning principles as established by *Tenacity v Warringah Council*.
 8. The proposed development fails to satisfy the provisions and objectives for development in the Bulli as outlined in Section 3.15, Part D (Character Statements) of the Wollongong DCP 2012 as the proposed development fails to recognise the existing and desired future architectural characteristics for development in the area and as stipulated in the WDCP.
2. Should an Appeal be made to the Land and Environment Court, all functions of the Panel in relation to the Appeal are delegated to the Manager Development Assessment and Certification, pursuant to Section 2.20 (8) 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 Panel considers that the proposed bulk, scale, form and design of the development is inconsistent with the established character of the immediate residential locality.
- The proposal will have an unacceptable impact in terms of streetscape, both from Weaver Terrace and as viewed from the foreshore public reserve.
- The Panel concurs with the Officer's recommendation.

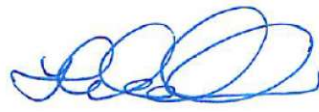
Panel Note: The Department of Planning and Environment recently amended and consolidated the existing forty-five (45) state environmental planning policies (SEPPs) into eleven (11) new policies in order to simplify the planning system. The consolidated SEPPs commenced on 1 March 2022 with the exception of the Housing SEPP which commenced on 26 November 2021 and the Design and Place SEPP which is still in a draft form.

Notwithstanding that the Officer's report was prepared prior to 1 March 2022, the Panel has considered this application in accordance with the relevant SEPPs as they apply as at 8 March 2022.

PANEL MEMBERS



Robert Montgomery
(Chair)



Helena Miller



Larissa Ozog



Peter Sarlos
(Community Representative)

SCHEDULE 1		
1	DA NO.	DA-2021/796
2	PROPOSED DEVELOPMENT	Alterations and additions to dwelling and swimming pool
3	STREET ADDRESS	2 Weaver Terrace, Bulli NSW 2516
4	APPLICANT/OWNER	Mr Mark Leslie Swinnerton Ms Marnie Elizabeth Phillips
5	REASON FOR REFERRAL	The proposal has been referred to the Wollongong Local Planning Panel (WLPP) for determination pursuant to Section 2 of Schedule 2 of the Local Planning Panels Direction of 30 June 2020, as the Development Application is the subject of 10 or more unique submissions by way of objection.
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy No 55 – Remediation of Land ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ State Environmental Planning Policy (Coastal Management) 2018 ○ Wollongong Local Environment Plan 2009 • NSW Apartment Design Guide • Wollongong Section 94A Development Contributions Plan • Development control plans: <ul style="list-style-type: none"> ○ Wollongong Development Control Plan 2009 • 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 8 March 2022 • Written submissions during public exhibition: sixteen (16) • Verbal submissions at the public meeting: three (3)
8	SITE INSPECTIONS BY THE PANEL	Virtual Site inspection 8 March 2022. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Robert Montgomery (Chair), Helena Miller, Larissa Ozog, Peter Sarlos (Community Representative) ○ <u>Council assessment staff</u>: Evan Fitzsimmons
9	COUNCIL RECOMMENDATION	Refuse
10	DRAFT CONDITIONS	Attached to the council assessment report