

Minutes of the Electronic Extraordinary Cumberland Local Planning Panel Meeting held via Zoom on Wednesday 27 May 2020.

PRESENT:

The Hon. Paul Stein AM (Chairperson) QC, Marjorie Ferguson, Lindsay Fletcher and Irene Simms.

IN ATTENDANCE:

Daniel Anderson, Jai Shankar, Sohail Faridy, Olivia Yana, Glen Weekley, Brittany Mould, Esra Calim, Olivia Shields and Rashika Rani.

NOTICE OF LIVE STREAMING OF CUMBERLAND LOCAL PLANNING PANEL MEETING

The Chairperson advised that the Cumberland Local Planning meeting was being streamed live on Council's website and members of the public must ensure their speech to the Panel is respectful and use appropriate language.

The meeting here opened at 11:36a.m.

DECLARATIONS OF INTEREST:

There were no declarations of interest.

ADDRESS BY INVITED SPEAKERS:

The following persons had made application to address the Cumberland Local Planning Panel meeting:

<u>Speakers</u>	<u>Item No.</u>	<u>Subject</u>
Nebahat Ipak	Development Application for 20-22 Dressler Court, Merrylands	
Joseph Scuderi	Development Application for 20-22 Dressler Court, Merrylands	
Garry Chapman	Development Application for 20-22 Dressler Court, Merrylands	
Jonathon Wood	Development Application for 27-29 Toongabbie Road, Toongabbie	
Matthew Daniel	Alteration to the Gateway Determination for the Planning Proposal for 2 Bachell Avenue, Lidcombe	
James Matthews	Alteration to the Gateway Determination for the Planning Proposal for 2 Bachell Avenue, Lidcombe	

The Chairperson enquired to those present in the Zoom meeting as to whether there were any further persons who would like to address the Panel and no further persons presented themselves.

The open session of the meeting here closed at 12:50p.m.

The closed session of the meeting here opened at 1:10pm.

ITEM ELPP021/20 - DEVELOPMENT APPLICATION FOR 20-22 DRESSLER COURT,
MERRYLANDS

PANEL DECISION

- 1. That modification application M2016/496/8 seeking internal and external alterations to Buildings 3 and 4, including changes to basement levels, rearrangement of apartments to introduce additional dual key apartments, enlargement of Building 3 footprint, modification of roof form, reconfiguration of OSD tanks, relocation of substation kiosk and changes to glazed areas at 20-22 Dressler Court, Merrylands, be approved in part and subject to the conditions contained in the draft notice of determination contained in Attachment 2 of this report with the following changes:**

- Addition of Condition 38H**

The conversion of units 3.L.07 at levels 1-11 of building 3 to a dual key apartment with a 2 bedroom and studio arrangement and the consequent change to the common corridor of those units is not approved. The plans are to be amended accordingly prior to the issue of a Construction Certificate.

- Deletion of condition 13B**

- 2. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.**

For: Paul Stein AM QC, Marjorie Ferguson, Lindsay Fletcher and Irene Simms.

Against: Nil.

Reasons for Decision

- 1. The Panel is not satisfied that the changes result in acceptable amenity for the studio apartments given the increased noncompliance with the solar access/orientation requirements of the ADG.**

ITEM ELPP022/20 - DEVELOPMENT APPLICATION FOR 27-29 TOONGABBIE ROAD, TOONGABBIE

PANEL DECISION:

1. **That DA2019/0506 for the demolition of existing structures, consolidation of 2 lots into 1 lot, and construction of a residential flat building including a 3 storey building facing Cox Lane and a 5 storey building facing Toongabbie Road over basement parking accommodating 20 residential units and 25 parking spaces on land at 27-29 Toongabbie Road, Toongabbie be refused for the following reasons:**

1. Failure to demonstrate compliance with State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (pursuant to S.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979), with regard to the following:-

Clause 28(2) – Determination of Development Applications

- 1.1 In determining a development application for consent to carry out development to which this Policy applies, a consent authority is to take into consideration the provisions of the Apartment Design Guide (ADG). The proposal is unsatisfactory with regard to the following provisions of the ADG:

3F – Visual Privacy

- 1.1.1 By reason of the provision of the 3.8m setback to Cox Lane, the proposal fails to protect visual privacy between the adjoining properties. The applicant has not demonstrated that a 12m building separation can be achieved as required by the ADG.

3E – Deep Soil Zones

- 1.1.2 By reason of the inadequate provision of deep soil area of 2.42% where 7% is required, the development fails to sustain planting of canopy trees to positively contribute to landscaping on the subject site.

4E – Private Open Space

- 1.1.3 By reason of the inadequate private open space for units 1, 2, 3 and 4 on the ground floor level of 9.6m² where 15m² is required, the development compromises amenity of future residents.

4W – Waste Management

- 1.1.5 Design to waste management area with openings is unsuitable as it is to be located adjoining to unit 4 bedroom window. Waste

storage facility design fails to consider adverse impacts on the amenity of residents.

2. Failure to demonstrate compliance with Holroyd Local Environmental Plan (HLEP) 2013 (pursuant to S.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979), with regard to the following:-

Clauses 4.3 and 4.6 – Variation to Height of Buildings

- 2.1 Pursuant to the Height of Buildings Map referred to in Clause 4.3(2) of HLEP 2013, the maximum permissible building height for the site is 15m. The maximum height of the proposed building is 16.7m, which is 1.7m greater than the maximum building height, representing a 11.3% variation to the development standard. The development application has not adequately demonstrated the variation to the building height would allow for the development that is complementary to, and well-integrated with the high density residential development; as an amended Clause 4.6 variation requested was not submitted.

The development application must be refused because a written request pursuant to Clause 4.6 of HLEP 2013 in relation to the 1.7m contravention of the development standard in clause 4.3(2) of HLEP 2013 has not been submitted to demonstrate:

- i. that compliance with the development standard in clause 4.3(2) of HLEP 2013 is unreasonable or unnecessary in the circumstances of the case,
- ii. that there are sufficient environmental planning grounds to justify contravening the development standard in clause 4.3(2) of HLEP 2013, and
- iii. that the proposed development will be in the public interest because it is consistent with the objective of the standard in clause 4.3(2) of HLEP 2013.

Clauses 4.4 and 4.6 – Variation to Floor Space Ratio (FSR)

- 2.2 Pursuant to the Height of Buildings Map referred to in Clause 4.4(2) of HLEP 2013, the maximum permissible floor space ratio (FSR) for the site is 1.2:1. The maximum FSR of the proposed building is 1.29:1 representing a 8.25% variation to the development standard. The development application has not adequately demonstrated the variation to the FSR would allow for the development that is complementary to, and well-integrated with the high density residential development; as a Clause 4.6 variation requested was not submitted.

The development application must be refused because a written request pursuant to Clause 4.6 of HLEP 2013 in relation to the contravention of the development standard in clause 4.4(2) of HLEP 2013 has not been submitted to demonstrate:

- i. that compliance with the development standard in clause 4.4(2) of HLEP 2013 is unreasonable or unnecessary in the circumstances of the case,
- ii. that there are sufficient environmental planning grounds to justify contravening the development standard in clause 4.4(2) of HLEP 2013, and
- iii. that the proposed development will be in the public interest because it is consistent with the objective of the standard in clause 4.4(2) of HLEP 2013.

Clause 6.5 – Essential Services

- 2.3 Inadequate information to confirm the location of substation to enable the supply of electricity to be provided wholly within the site.

Clause 6.7 – Stormwater Management

- 2.3 The proposed stormwater system will allow for contaminants to seep into the OSD tank, which is detrimental to environment. Inadequate information to confirm that stormwater management could be provided wholly within the site.
3. Failure to demonstrate compliance with Holroyd Development Control Plan (DCP) 2013, Part A – General Controls (pursuant to S.4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979), with regard to the following:-

3.3 – Car Parking Dimensions and 3.5 – Access Manoeuvring and Layout

- 3.1 The proposal fails to provide proper vehicles manoeuvring to allow for adequate setback from the existing lamp pole and side boundary, and sufficient passing and turning bays, as the aisle widths do not comply.

3.6 – Parking for Disabled

- 3.2 By the reason that 2 accessible spaces are provided where 3 spaces are required, the proposal fails to provide the required parking spaces for disabled person.
4. Failure to demonstrate compliance with Holroyd Development Control Plan (DCP) 2013, Part B – Residential Controls (pursuant to S.4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979), with regard to the following:-

1.12 – Universal Housing and Accessibility

- 4.1 By the reason that 2 adaptable units are provided where 3 units are required, the proposal fails to provide the required parking spaces for disabled person.

6.2 – Site Coverage

- 4.2 The proposed site coverage is 44.8% where maximum of 30% is permitted, which results in failure to provide adequate deep soil area and stormwater management.
5. Failure to demonstrate compliance with Holroyd Development Control Plan (DCP) 2013, Part L – Town Centre Controls (pursuant to S.4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979), with regard to the following:-

1.2 – Rear Laneways, Land Dedication, Access and Vehicular Entries

5.1 Deleted

6.3 - Building Height

5.2 The maximum number of storeys for residential flat building on the subject site is 4 storeys. However, the development proposes a maximum 5 storey building. Given that the proposal has not been accompanied with appropriate justification and Clause 4.6 variation request for height of buildings, the storey exceedance is not supported.

Traffic and Parking

6. The development application should be refused because the design of the basement and car parking provided is unacceptable and fails to meet the relevant Australian Standards. There is inadequate information to demonstrate the following:
- i. That dimensions of the proposed aisle width comply with the relevant Australian Standards.
 - ii. That two vehicles can pass each other at intersection points and at the entry and exit of the ramp.
 - iii. That details of the control device for the roller gates to ensure that the control device shall not reduce the width of the access driveway or impact on the flow of traffic and road safety.
 - iv. That appropriate setback of driveway to the existing lamp post could be provided.

Inadequate Information

7. The proposed development fails to address the relevant matters arising from the Environmental Planning and Assessment Regulations 2000 (EP&A Reg) in relation to documents required to be submitted to accompany a development application pursuant to Section 4.15(1)(a)(iv) of the Environmental Planning and Assessment Act 1979. The development application should be refused because there is inadequate information submitted with regard to the following:
- i. Deleted
 - ii. There is inadequate information submitted to address issues raised with respect to the design of the basement, setback from existing lamp pole, and traffic and parking matters.

- iii. There is inadequate information submitted to address issues raised with respect to the design of the stormwater management on site.
- iv. A revised acoustic report to address noise during construction, communal open space, and mechanical and basement ventilations is required.
- v. There is inadequate information submitted to ensure supply of electricity could be provided wholly within the site.

Suitability of the site for the proposed development

8. The subject site is not considered suitable for the development as proposed due to the inadequacies detailed above (section 4.15(c) of the Environmental Planning and Assessment Act 1979).

Environmental Impact

9. Due to the deficiencies detailed above, the likely environmental impacts of the proposed development are considered to be unacceptable (section 4.15(1)(b) of the Environmental Planning and Assessment Act 1979).

Public Interest

10. Due to the deficiencies detailed above, approval of the proposed development would be contrary to the public interest (section 4.15(1) (e) of the Environmental Planning and Assessment Act 1979).

For: Paul Stein AM QC, Marjorie Ferguson, Lindsay Fletcher and Irene Simms.

Against: Nil.

ITEM ELPP023/20 - DEVELOPMENT APPLICATION FOR 363-373 GUILDFORD ROAD, GUILDFORD

PANEL DECISION:

- 1. That Development Application No. DA2019/0525 for alterations and additions to the signage layout and extension of hours of operation (Monday - Friday & Sunday 8.00am to 10.00pm and Saturday & Public Holidays 8.00am to 12 midnight) on land at 363-373 Guildford Road GUILDFORD NSW 2161 be approved subject to the conditions listed in Attachment 8 of the report.**

For: Paul Stein AM QC, Marjorie Ferguson, Lindsay Fletcher and Irene Simms.

Against: Nil.

Reasons for Decision

The Panel is in agreement with the Planning Officer's report and notes that there is a condition requiring a plan of management which will enable any noise issues to be addressed should they arise.

ITEM ELPP024/20 - ALTERATION TO THE GATEWAY DETERMINATION FOR THE PLANNING PROPOSAL FOR 2 BACHELL AVENUE, LIDCOMBE

PANEL DECISION

That the Cumberland Local Planning Panel (CLPP):

1. **Recommend that the request not proceed until the following issues are addressed:**
 - a. **The Panel was not persuaded that an FSR in excess of 2.5:1 has been justified by the proponent and if the amendment is to proceed, further justification for the increased FSR is necessary.**
 - b. **Further, the economic study should be updated to address the impact of the additional permitted uses and proposed office and business premises floor space cap on nearby centres.**
2. **The Panel accepts the recommendation of 18m and 29.9m height of building control for the site.**
3. **Note that the following controls are to be retained as included in the Gateway Determination for the proposal:**
 - i) **Introduction of B5 Business Development Zone for the site**
 - ii) **Removal of Foreshore Building Line that applies to the site.**

For: Paul Stein AM QC, Marjorie Ferguson, Lindsay Fletcher and Irene Simms.

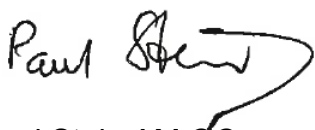
Against: Nil.

The closed session of the meeting here closed at 3:23p.m.

The open session of the meeting here opened at 3:24p.m. The Chairperson delivered the Cumberland Local Planning Panel's resolutions via the Zoom link.

The meeting terminated at 3:27p.m..

Signed:



Paul Stein AM QC
Chairperson