

Minutes of the Cumberland Local Planning Panel Meeting held via Electronic Determination on Wednesday, 7 May 2025.

PRESENT:

Heather Warton	Chairperson
Garry Chapman	Expert Member
Naomi Fiegel	Expert Member
Yakub Comert	Community Member

IN ATTENDANCE:

Bhavisha Sheth	Acting Executive Manager City Planning and Development
Michael Lawani	Coordinator Major Development Assessment
Esra Calim	Coordinator Planning Operations
Fay Ong	Acting Coordinator Fast Track Development Assessment
Faisal Halla	Senior Development Planner
Harley Pearman	Executive Planner
Christine Vu	Development Planner
Caroline Kadayifci	Business Support Officer
Paulette Maroon	Governance Officer (Minute Taker)
Joyti Sharma	Governance Officer – left 11.50am

The meeting opened at 1.45pm.

DECLARATIONS OF INTEREST:

There were no declarations of interest.

ITEM ELPP009/25 - DEVELOPMENT APPLICATION - 5 IRWIN PLACE, WENTWORTHVILLE

PANEL DECISION:

1. Development Application No. DA2024/0515 for the demolition of existing structures and construction of a five storey co-living housing development comprising of 30 single rooms over basement car parking on land at 5 Irwin Place WENTWORTHVILLE NSW 2145 is refused, for the reasons below.
2. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.

Reasons for Refusal

1. The submitted Site Plan shows spot levels which indicate that the building will exceed the maximum height to a minor extent. As well, only a minimal height lift over run (LOR) is shown on the drawings, which is not consistent with information provided by the Applicant to the Council that the LOR will be 2.7m high.

2. The proposal does not provide adequate floor to floor (F-F) heights in order to provide a minimum floor to ceiling height of 2.7m, which is desirable to provide sufficient natural ventilation and day light access under Objective 4C-1 of the Apartment Design Guide. The F-F height of the top floor is shown as being 2.5m, which will result in a Floor to Ceiling Height below that allowed under the minimum under the BCA.

The F-F heights are inadequate given:

- a) the size of the majority of rooms are close to the minimum size in terms of floor area, hence internal amenity is at the minimum;
 - b) the single window to rooms on the eastern elevation are required to be provided with privacy screens due to the non-compliance with the side setback control, further reducing sunlight access;
 - c) the need for windows to remain closed to maintain acoustic compliance as recommended in the submitted Acoustic Report, will necessitate air conditioning and/or mechanical ventilation, an allowance for which is not shown on the drawings; and
 - d) construction of the building with a slab thickness of 150mm is questioned.
3. From 1. above, the height of the building including the LOR will exceed 15m. From point 2, the building height will need to be increased from that shown on the drawings to improve the amenity of the rooms, to cater for services and for structural and adequate fire safety.
 4. No written submission under clause 4.6 of CLEP 2021 to vary the Height of buildings development standard under clause 4.3 of CLEP 2021 has been provided. Consent must be refused.
 5. Inadequate information is presented in the application:
 - a) It is not demonstrated that the basement car parking complies with the required standards for access as no updated swept paths for the current proposal have been provided. The current layout appears problematic in this regard.
 - b) The Plan of Management is inadequate as:
 - i. it contains information inconsistent with the current proposal with regard to the maximum occupancy, and cites the wrong LGA;
 - ii. does not contain the recommendations of the Acoustic Report with regards to restrictions on the use of communal open space;

- iii. does not contain the recommendations with regard to the requirements for an emergency plan for flooding.
6. Consent is unable to be granted as inadequate information has been presented to enable the Panel as the consent authority to be satisfied that clause 5.21(2)(a) – (e) of CLEP 2021 has been satisfied, and to consider clause 5.21(3)(a) to (d) of CLEP 2021 regarding flood planning.

Reason for Decision

The Panel has considered the matters raised in written submissions to the application.

The Panel appreciates that the site is isolated and poses a challenge in terms of development, given the applicable development controls. However, the drawings lack realistic detail to satisfy the Panel that the building as presented will be compliant with the maximum building height development standard. Additional information is also required as identified above to enable consent to be granted.

Deferral of the application was considered, but this would require a significant re-design and further notification would be required.

For: Heather Warton (Chairperson), Garry Chapman, Naomi Fiegel and Yakub Comert

Against: Nil.

ITEM ELPP010/25 - DEVELOPMENT APPLICATION - 31 MARY STREET, LIDCOMBE

PANEL DECISION

1. The Panel is satisfied that the applicant's written request to vary the development standard relating to Height of buildings in clause 4.3 of Cumberland Local Environmental Plan 2021 (CLEP 2021) has adequately addressed the matters required to be demonstrated in clause 4.6(3) of CLEP 2021.
2. The Panel is satisfied that the applicant's written request to vary the development standard relating to the minimum allotment size for co-living housing in section 69(1)(b)(ii) of State Environmental Planning Policy (Housing) 2021 has adequately addressed the matters required to be demonstrated in clause 4.6(3) of CLEP 2021.
3. Development Application 2024/0751 for alterations and additions to a mixed use development under Development Application 2022/0643 to remove four apartments and a swim school and to replace with 20 co-living rooms and associated communal rooms; and changes to the basement car park is approved subject to the conditions recommended in Attachment 1 of the assessment report, with the following amendments:
 - (a) Condition 13(b) and (d) are deleted.
 - (b) A new condition (b) is to read:
 - (b) The balconies on the western elevation are to be deleted and that part of the elevation revert to the elevation as approved under DA2022/0643. In order to provide a communal open space in compliance with Section 68(2)(d)(i) and (ii) of the Housing SEPP, the open space on the balconies is to be replaced with an expanded area of communal rooftop open space. This total communal open space must be a minimum of 156.97m².
 - (c) The Plan of Management on Page 10 referencing 16 lodgers is to be amended to refer to the proposed 24 lodgers, as identified in Condition 117.
 - (d) Condition 129 (b) is deleted, noting that Condition 115 requires that any change to the Plan of Management may only occur with the approval of Council.
4. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.

Reasons for Approval

The Panel generally concurs with the Planning Officers report, subject to amendment to the location of the communal open space (COS) to improve the amenity for residents. As proposed, the amenity of the COS located on the balconies on the side of the building is poor and are isolated, with no visibility from within the building.

Subject to the conditions of consent, the proposal will not have any unreasonable impacts on the amenity of neighbouring properties or the locality.

The Panel notes that this is an amending DA and that the proposal primarily is to remove the proposed swim school, convert four residential apartments to co-living rooms and provide the associated communal open space and car parking. The Panel has not re-assessed nor has re-approved the child care centre component of the development, other than the minor changes presented, as this was approved under the base development application.

The Panel has considered the matters raised in written submissions.

For: Heather Warton (Chairperson), Garry Chapman, Naomi Fiegel and Yakub Comert

Against: Nil.

ITEM ELPP011/25 - DEVELOPMENT APPLICATION - 112 GIRRAWEE ROAD,
GIRRAWEE

PANEL DECISION:

1. The Panel is not satisfied that the applicant's written request to vary the development standard relating to the minimum lot size for a secondary dwelling in section 53(2)(a) of SEPP (Housing) 2021 has adequately addressed the matters required to be demonstrated in clause 4.6 (3) of Cumberland LEP 2021.
2. Development Application No. DA2024/0715 for demolition of the existing dwelling and construction of a two storey attached dual occupancy, conversion of the existing secondary dwelling and garage into two studio outbuildings, Torrens title subdivision into two lots and conversion of the two studio outbuildings into two secondary dwellings on land at 112 Girraween Road GIRRAWEE NSW 2145 is refused for the reasons below.
3. Persons whom have lodged a submission in respect to the application be notified of the determination of the application.

Reasons for Refusal

1. Site area

The site areas of proposed lot 1 (380.2m²) and proposed lot 2 (361.8m²) are too small. Each lot fails to accommodate an appropriate development form that is permissible and that is acceptable on merit.

The 450m² minimum site area development standard under s.53(2)(a) of Statement Environmental Planning Policy (Housing) 2021 applies to each of the proposed lots, the clause 4.6 submission has failed to demonstrate that compliance with the standard is unreasonable or unnecessary in the circumstances and similarly has failed to demonstrate that there are sufficient environmental planning grounds to justify the numerically significant variation.

2. Secondary dwelling and studio side setbacks

The proposed development fails to comply with the secondary dwelling's setback provisions at part B, section 2.21 of control C12 of the Cumberland Development Control Plan, and the studio's setback provisions at part 2.1, Objective 2.1T-2, control 104 of the Low Rise Housing Diversity Design Guide for the following reasons:

- a) The proposed secondary dwellings/studios are attached together, sharing a common party wall, resulting in a nil (0m) southern side setback for the secondary dwelling/studio of Lot 1 and a nil (0m) northern side setback for the secondary dwelling/studio of Lot 2. This represents a 100% variation to Lot 1's southern side and Lot 2's northern side. Compliance with the National Construction Code (NCC) and Building Code of Australia (BCA) is not indicated. As a result, this diminishes the amenity for future occupants and neighbouring properties.

- b) The inconsistent setbacks proposed do not maintain the established character of the area when compared to the prevailing setbacks of other similar buildings / dwellings approved in the area and therefore results in an undesirable precedent.

3. Studio size

The proposed development fails to comply with the studio's size provisions Cumberland DCP 2021 which relies on part 2.1, Objective 2.1T-2, control 102 of the Low Rise Housing Diversity Design Guide for the following reasons:

- a) Maximum area of the studio is 53.6m² to Lot 1 and 52m² to Lot 2. This represents a variation of 17.6m² or 48.9% to Lot 1 and 16m² or 44.44% to Lot 2. The proposed studio area is excessive in size, bulk and scale as the intended use of the studios is to be converted into secondary dwellings at stage 2.

4. Insufficient information

- a) The proposed development fails to comply with the secondary dwelling's design and appearance provisions at part B, section 2.21 of control C5 of the Cumberland Development Control Plan for the following reasons:
Insufficient information has been provided in that a BCA Compliance Capability Report from a registered certifier to determine how compliance with NCC will be achieved for the change in classification from a class 10a building to a 1a building (i.e., the existing garage proposed to be converted to a studio, then to a secondary dwelling). It is uncertain at this stage in the absent BCA Compliance Capability Report Council is unable to carry out a proper and thorough assessment of compliance with the NCC.
- b) Insufficient information has been provided in respect of the dimensions of the proposed lots and the proposed dwellings, rendering the location of the proposed allotment boundary relative to the dwellings uncertain, in addition to an inability to assess measures that may be required to prevent the spread of fire between dwellings and consequences such fire measures may have on the amenity of the individual dwellings.
- c) Insufficient information has been submitted to demonstrate compliance with Chapter 2 of the State Environmental Planning Policy (Sustainable Buildings) 2022 in relation to the secondary dwellings. BASIX Certificate's for the secondary dwellings are required to assess if the proposal will meet the required target for Water, Thermal Comfort and Energy.

Reasons for Decision

The Panel generally concurs with the reasons outlined in the Planning Officers report that the application be refused.

For: Heather Warton (Chairperson), Garry Chapman, Naomi Fiegel and Yakub Comert

Against: Nil.

The meeting terminated at 3.20pm.

Signed:



Heather Warton
Chairperson