

Panel Members

Chairperson	Jason Perica
Panel Experts	Stephen Leathley Sue Francis
Community Representative/s	Geoff Mitchell

Central Coast Council Staff Attendance

Brian Jones	Unit Manager Environment and Certification
Emily Goodworth	Section Manager Major Development Applications
Salli Pendergast	Section Manager Development Assessment North
Scott Rathgen	Section Manager Central Coast Building Certification North
Gary Evans	Principal Building Surveyor Development Assessment North
Janice Buteux-Wheeler	Senior Development Planner Major Development Applications
Amanda Hill	Development Planner Development Assessment North
Rebecca Samways	Development Planner Major Development Applications
Rachel Callachor	Local Planning Panel Support Coordinator

The Chairperson, Jason Perica, declared the meeting open at 2:00pm and advised in accordance with the Code of Meeting Practice that the meeting is being recorded.

The Chair, Jason Perica read an acknowledgement of country statement.

The Panel were invited to ask any questions of Council officers in relation to the application for agenda item 4.1 (for electronic determination after the meeting) during the public meeting. There were no questions asked.

Apologies

The Panel noted that no apologies had been received.

1.1 Disclosures of Interest

That Panel Members confirmed that they have signed a declaration of interest in relation to each matter on the agenda for this meeting.

No declarations of Interest were made, apart from Ms Sue Francis in relation to item 3.2 at 15 Lynnette Crescent, East Gosford.

Ms Francis made a discretionary disclosure, in that: *"Clayton Votano, is a person that I am aware. Mr Votano was an employee of City Plan Services Pty Ltd (CPS) until approximately. two years ago. My company is an associated company to CPS but at no time have I had (or have) any financial, operational or managerial involvement in CPS nor of Mr Votano. I mention this for abundant transparency but do not believe I have any conflict of interest in considering this matter.*

The Chair accepted the nature of this disclosure.

Public Forum

Speakers

For Item 3.1, Mark Sloane, David Harris MP (Member for Wyong) and Sandra Pazaridis spoke for the recommendation. Karen Kelly spoke against the recommendation. Charles Ahady and Sam Ahady spoke on behalf of the applicant for item 3.1.

For Item 3.2 Clayton Votano spoke on behalf of the applicant.

Item 3.3 there were no registered speakers.

Duration

The Local Planning Panel opened at 2pm and closed at 3:22pm.

3.1 Development Application DA/153/2020 - 51 Peel Street, Toukley - Change of Use from Nursing Home to Boarding House and Associated Works

Site Inspected Yes

Relevant Considerations As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report
- Submissions

Council Recommendation Refusal

Panel Decision

That the majority of the Local Planning Panel refuse the application for the following reasons:

1. The proposal is considered unsatisfactory with regard to State Environmental Planning Policy (Affordable Rental Housing) 2009. The development does not comply with regard to Clause 30A Character of local area.
2. The proposal is not consistent with the R1 General Residential zone objectives of Wyong Local Environmental Plan 2013 as the development does not provide for development that is compatible with the physically desirable attributes of the local area.
3. The proposal results in unacceptable streetscape impacts on the surrounding area. The building is visually obtrusive and the substantial refit, together with its use as residential accommodation, warrant a far greater degree of design improvement to the building, both internally and externally, than illustrated on the plans accompanying the application.
4. The proposal results in poor amenity for intended residents of the boarding house, including related to private open space, solar access, ventilation, length and amenity of corridors, access to reasonable communal facilities on each level, poor surveillance and CPTED measures, inadequate disabled access and high levels of landscaping. Reasonably high levels of amenity were warranted and the design does little to redress the institutional look and feel of the building.
5. The proposal is an overdevelopment of the site by virtue of the following:-
 - a) Too many rooms per floor with poor internal amenity in respect of solar access
 - b) Internal corridors too long and narrow
 - c) Need communal open space on each floor not on one floor only.
 - d) Communal room to open on to outside communal open space.
 - e) A better interface of rooms to the open space is required

6. The scale and intensity of the proposed development is unsuitable for the site, particularly noting a lack of adequate communal facilities and services for a large population. It has not been demonstrated that the number of boarders proposed can be appropriately managed on the site.
7. The documentation submitted with application has not satisfactorily addressed potential social impacts of the proposal ,also noting concerns raised by the NSW Police Force.
8. The plans and documentation submitted with the application are unclear, inconsistent or not provided to be able to determine the application:-
 - a) The plans are inconsistent with elevations
 - b) The elevations and plans provide insufficient detail to understand the nature of the changes to the building
 - c) There is insufficient detail as to the structural integrity of the building to withstand the proposed changes
 - d) There is insufficient detail in respect of landscaping
 - e) There is no shadow analysis of the impact of the building on the landscaped areas nor analysis of solar access to the rooms within the development
 - f) There is no detail as to waste management
 - g) The Plan of management does not provide sufficient detail to understand the future operation of the proposal
 - h) Insufficient information is provided in respect of safety and security for the site.
 - i) Lack of detail for disabled access throughout the site

Reasons

The reasons for the decision are outlined above. The Panel was not conceptually opposed to a Boarding House use on the site. However, it was far too dense, amenity for residents would be substandard, there has been little effort to redress the institutional feel of the building, inadequate communal areas are provided and the building design, if it is retained must be substantially improved.

Sue Francis would refuse the application but only reason for refusal 5 and 8 above. She considers that the existing building is part of the character of the local area of which it has been a part for many decades. The adaptive reuse of this building as low rental housing in the form of boarding rooms could be a good use for this building, as a matter of principle.

However, the form and density of the proposal as submitted is unacceptable in respect of its density, poor amenity, design and unresolved plans and documentation such that the consent authority cannot be satisfied as to the impact and appropriateness of the proposal. Whilst the applicant did state that the proposal would satisfy the relevant criteria it had not been provided with the application and it needs to be before any reasonable consideration can be given.

Geoff Mitchell also had a dissenting view and believed the application should be deferred. He noted the applicant stated a willingness to make further changes and improvements to the building to address Council staff concerns and deferral would allow this to occur.

Votes The decision to refuse the application was 3-1. However the terms of the refusal were split 2-2 with the Chair using his casting vote to refuse the application for the reasons above. As above, Mr Mitchell favoured deferral of the application.

3.2 DA/58327/2020 - 15 Lynnette Crescent East Gosford - Alterations and Additions to the existing Dwelling, Carport, Cabana, Inground swimming pool and retaining structures

Site Inspected Yes

Relevant Considerations As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report
- Submissions

Council Recommendation Refusal

Panel Decision

That the Local Planning Panel defer consideration of the Development Application and invite the applicant to submit amended plans and details to address the following:

1. Deletion of the carport;
2. Move the rear southern retaining wall off the boundary by at least 900mm (the proposed height can be retained, but not increased), with appropriate details, including a cross section which identifies the relative level of the subject site to its neighbours so that the resulting height of the boundary fencing can be clearly understood.;
3. Landscaping details in the setback between the southern boundary and the retaining wall to grow to a mature height of around 3m to address potential overlooking from the raised backyard.

These plans and supporting information shall be submitted to Council within 21 days of written advice to the applicant. When the documentations is resubmitted, a supplementary report by Council will be referred to the Panel as soon as practicable, for electronic determination.

Reasons

The Panel agreed with concerns within the Council staff report. However, key concerns could be addressed by amended plans and details. While it was understood such an opportunity was provided to the applicant during assessment, the Panel was open to one last opportunity following the applicants verbal submission to the Panel, so that aspects of the proposal which were not of concern may be approved.

Votes The decision was unanimous

3.3 DA/182/2020 125-135 Tuggerah Parade, Long Jetty - mixed use building comprising 23 dwellings, tourist and visitor accommodation, business premises, food and drink premises (café) and function centre, basement parking and associated works

Site Inspected Yes

Relevant Considerations As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report
- Late submission from the applicant requesting deferral

Council Recommendation Refusal

Panel Decision

That the Local Planning Panel refuse the application subject to reasons below and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.

1. The development does not meet the definition of shop top housing. The development is more properly characterised as residential accommodation, which is a prohibited use in the B2 Local Centre zone under Wyong Local Environmental Plan 2013. The proposal does not meet the definition of shop top housing because:
 - a) The application proposes ground floor residential apartments
 - b) The application proposes ground floor commercial uses
 - c) The application proposes ground floor function centre uses.
2. The proposal does not comply with the maximum 16 metres Height of Building provisions of Clause 4.3 of the Wyong Local Environmental Plan 2013. A Clause 4.6 written contravention request has not been lodged and accordingly there is no power to approve the application. Further, The height of the building of 17.39 metres to the lift overrun contributes to an unsympathetic development form that is not appropriate in the

context of directly adjoining and nearby development sites and contrary to the objectives of the standard resulting in unacceptable scale, bulk, form and amenity concerns to neighbouring properties. The proposal does not achieve the objectives of the height of building development standard of Clause 4.3 because the proposal is not compatible with the bulk, height and scale of existing and future character and the development results in poor visual bulk and privacy impacts to neighbouring properties.

As the proposal does not comply with the maximum 16 metres Height of Building provisions of Clause 4.3 of the *Wyong Local Environmental Plan 2013*. A Clause 4.6 written contravention request has not been lodged and accordingly there is no power to approve the application.

Further, the height of the building at 17.39 metres to the lift overrun contributes to an unsympathetic development form that is not appropriate in the context of directly adjoining and nearby development sites and contrary to the objectives of the standard resulting in unacceptable scale, bulk, form and amenity concerns to neighbouring properties

3. The development does not achieve the zone objectives of the B2 Local Centre zoning of Wyong Local Environmental Plan 2013.
 - a) The proposal does not sufficiently minimise conflict between land uses within the zone and the adjacent R2 zone and the RE1 zone. The proposed development is not sufficiently compatible with character of the surrounding locality and fails to relate to its context, including a zone and height interface area. Unarticulated elevations Sheer-sided walls of four to five storeys, insufficient setbacks facing Pacific Street, and facades with inappropriate architectural character, result in overbearing visual impact upon the adjoining R2 Low Density Residential zone and the lakeside reserve.
 - b) The development does not have sufficient regard for ground floor activation. The level changes are inappropriately managed between ground floor uses and the street frontage. The proposed function centre use is not a sufficiently activating use for the corner. The design of the ground floor of the development does not encourage the movement of people through and around the site in a way that supports the function of the non-residential uses as active uses. The proposal does not comply with the maximum 1.5:1 Floor Space Ratio provision of Clause 4.4 of the *Wyong Local Environmental Plan 2013*.
 - a) The floor space ratio of the proposal is 1.78:1. The proposal does not achieve the objectives of the floor space ratio development standard of Clause 4.4 because the proposal does not achieve a compatible bulk that is appropriate for the site and it does not sufficiently integrate with the streetscape and character of the area. a. The proposed mass and scale of the building form is inappropriate for the corner location, does not adequately respond to the RE1 and R2 zone interface, and results in poor amenity outcomes.

- b) The written request that has been submitted with the development application under the provisions of Clause 4.6 of the Wyong Local Environmental Plan 2013 does not adequately demonstrate that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case or that there are sufficient environmental planning grounds to justify contravening the standard.
 - c) The variation to the Floor Space Ratio development standard of Clause 4.4 is not in the public interest because it is not consistent with the objectives of the development standard and the objectives for the zone (4.6(4)(ii).
5. The proposal does not adequately address the provisions of Clause 7.2 of the Wyong Local Environmental Plan 2013 because:
- a) the flood assessment submitted with the development application does not adequately address climate change considerations for the development
 - b) shelter in place as identified within the submitted flood assessment is not an appropriate strategy for the site.
6. The proposal does not adequately address the provisions of Clause 7.9 of the Wyong Local Environmental Plan 2013. The application does not include sufficient detail to adequately address water quality measures to treat stormwater prior to entering Council's stormwater drainage system.
7. The proposal does not adequately address the provisions of State Environmental Planning Policy 65 (Design Quality of Residential Apartment Development). Adequate regard to the design quality principles and the objectives of the design criteria specified by the apartment design guide has not been given as required by Clause 30(2), including design quality, context, neighbourhood character, built form and character, density, amenity and safety.
8. The proposal does not satisfactorily achieve the objectives and design criteria of the Apartment Design Guide, including
- a) insufficient solar access (only 61%), Ground floor communal open space which is extensively shadowed,
 - b) Inadequate building separation and privacy impacts to neighbouring properties and within the development, compromised safety and security as a result of the narrow diagonal alley with limited sight lines and shared public and commercial access to lobbies that service residential apartments,
 - c) insufficient deep soil landscaping, façade treatment, unit layout and space

planning.

9. Car parking is inadequate for the intended uses, nor does it provide required accessible spaces.
10. The proposal does not adequately address the provisions of State Environmental Planning Policy (Coastal Management) 2018 related to visual amenity for a highly visible coastal location, bulk and scale and stormwater management.
11. Insufficient information:-
 - a) A valid BASIX Certificate has not been submitted and waste management is not demonstrated to meet Chapter 3.1 of Wyong Development Control Plan 2013 and the former Wyong Shire Council Waste Control Guidelines.
 - b) A Loading Dock Management Strategy as referred to in the Traffic Impact Assessment report by Seca Solution has not been provided.
 - c) Demolition details are inconclusive or not clearly indicated There is insufficient information including levels at the Tuggerah Parade property boundary.
 - d) There is no acoustic report. A plan of management has not been submitted to address the amenity conflicts arising from tourist and visitor accommodation onto permanent residential apartments, nor the intended use or operation of the proposed "function space".
 - e) No information has been provided in relation to a Social Impact Assessment (SIA) that addresses current tenant accommodation and the loss of affordable housing and available alternative housing for tenants.
 - f) No longitudinal driveway profile has been provided, nor dimensioned basement plans.

Reasons

As the application is refused, the reasons are outlined in the terms of the decision above.

The Panel had regard to the applicant's request for deferral, however, the Panel considered three principles in deciding whether deferral should be granted:

1. Whether the issues were clearly definable and understood, and likely to lead to a positive outcome;
2. Whether the changes needed to make the proposal acceptable would be likely to result in sustainably the same development;
3. The likely timeliness in reaching a satisfactory outcome.

Having regard to these principles the Panel decided deferral was not the appropriate course of action and refusal was warranted, as outlined above.

Votes The decision was unanimous

**4.1 DA/349/2019/A - Charmhaven Park, 35W Parkside Drive, Charmhaven -
Tennis clubhouse ancillary to recreation facility (outdoor) and demolition
(amended application)**

Site Inspected Yes

**Relevant
Considerations** As per Council assessment report

Material Considered • Documentation with application
 • Council assessment report

**Council
Recommendation** Approval, subject to conditions

Panel Decision

That the Local Planning Panel approve the modifications to Development Application 349/2019 as recommended in the Council staff report to the Panel meeting.

Reasons

The Panel agreed with the Council staff report assessment. The proposal is minor.

A Panel member noted due to the enclosed nature of the toilets this may lead to concealment, although this was not a matter related to the application before the Panel.

Votes The decision was unanimous