

Panel Members

Chairperson	Jason Perica
Panel Experts	Greg Flynn Linda McClure
Community Representative/s	Paul Dignam

Central Coast Council Staff Attendance

Ailsa Prendergast Section Manager Development Assessment South
Robert Eyre Principal Development Planner Development Assessment South
Karen Hanratty Senior Development Planner Development Assessment South
Rachel Callachor Administration Officer Business Support South
Belinda Jennett Administration Officer Business Support South
Kathryn Williams Administration Officer Business Support South

The Chairperson, Jason Perica, declared the meeting open at 2.06pm 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.

Apologies

That the Panel noted that no apologies have been received.

1.1 Disclosures of Interest

The Panel noted that no disclosures have been identified and forms had been submitted by members.

The Chair advised that Item 4.2 is to be considered publicly to allow interested parties (received late and prior to the meeting) to attend and address the Panel, as well as the applicant and their Planning representative, to answer questions from the Panel.

2.1 Confirmation of Minutes of Previous Meeting

The Minutes of the previous meeting of the Local Planning Panel held on 25 February 2021, which have been previously endorsed by the Chair of that meeting, were submitted for noting.

Public Forum

Item 3.1

Rod Wall (on behalf of adjoining owners) , Paul Anderson and Neil Kennard all spoke against recommendation and provided responses to enquiries from the Panel.

The following representatives spoke on behalf of the applicant and provided responses to enquiries from the Panel:

Sam Yasseen – Skylife – Applicant/Owner
Mark Girgis – Skylife – Applicant/Owner
Matt Cooper – GLN – Town Planner
Fu Siong Hie – Acouras – Acoustic Engineer
Greg Baird – Architect

Item 4.2

Francis Wiffen spoke against the recommendation.

The following representatives provided responses to enquiries from the Panel:

Janet Matthews – applicant
Michael Leavey – Michael Leavey Consulting

The Local Planning Panel public meeting closed at 3:27pm for Item 3.1.

A further public meeting to discuss Item 4.2 opened at 4:00pm and closed at 4:48pm.

3.1 DA 59244/2020 - 83 Gindurra Road, Somersby - Warehouse and Distribution Centre

Relevant Considerations	As per Council assessment report
Material Considered	<ul style="list-style-type: none">• Documentation with application• Council assessment report• Submissions• Supplementary memo, 7 April 2021• Speakers
Council Recommendation	Approval
Panel Decision	1 That the Local Planning Panel grant consent to DA59244/2020 - 83 Gindurra Road, Somersby - Warehouse and Distribution Centre subject to the conditions detailed in the schedule attached to the report, with changes to recommended conditions as below, and having regard to the matters for

consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.

Condition 2.13 be amended to state:

2.13. Submit amendments and associated details to the Council for written approval prior to the issue of any Construction Certificate. The amendments must provide for:

- a) Deletion of all the car parking spaces (29 spaces) to the north of the site and proposed building, including deleting the proposed access from Debenham Road South and the access to this area from the remainder of the site. The area of this carparking is to be retained in its natural state, with possible additional planting to mitigate impacts from the retaining wall adjoining this space (Reason: to reduce parking to meet Council requirements, appropriately respond to the site constraints and qualities, the Plan of Management considerations and to reduce ecological impacts on a sensitive site);*
- b) Deletion of a further 6 car spaces adjoining the western accessway, where this best achieves enhanced ecological outcomes and reduces potential car/pedestrian/truck conflicts Reason: to reduce parking to meet Council requirements, appropriately respond to the site constraints and qualities, the Plan of Management considerations, to reduce ecological impacts on a sensitive site and reasonably reduce potential vehicular/car/pedestrian conflicts and safety;*
- c) Deletion of the wall sign on the western elevation (Reason: non-compliance with the DCP controls, visual impacts, excessive scale, and unnecessary signage given the proposed use).*
- d) A reduction in size of wall signs on the southern and eastern elevations to a maximum size of 3m x 12.5m (Reason: significant non-compliance with the DCP controls, visual impacts, excessive scale, and unnecessary signage given the proposed use).*
- e) No illumination of wall signs (Reason: due to being a sensitive ecological site, the nature of the use and building being known to users and to reduce visual impacts on an interface site).*
- f) A reduction in size of pylon signs to a maximum of 6m high and 2m wide (Reason: to meet DCP controls, avoid adverse precedent and as the size is sufficient for the proposed use).*
- g) Amend the landscape plan to reflect the approved development plans as amended above. Where possible existing native vegetation is to be retained. The landscape plan shall also include street trees at 15m intervals within*

the road reserve (in the made portions) adjoining the proposed building works to the east and south, to mitigate loss of trees, visual impacts of the building, consider interface issues and contribute towards biodiversity and habitat.

A revised Condition 6.15 to state:

6.15. Minimise external lighting

Use external lighting that minimises overspill into retained vegetated areas and does not impact adjoining properties

A new Condition to state:

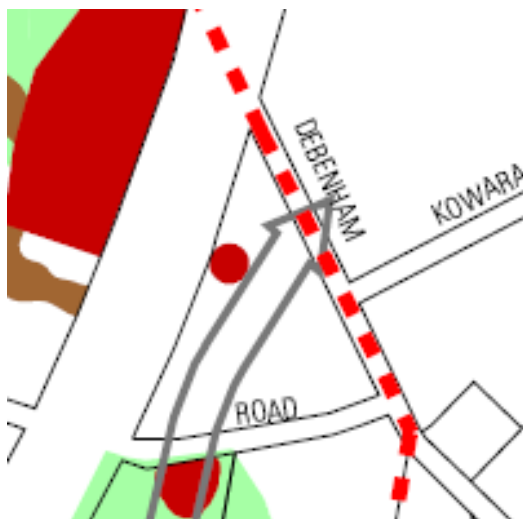
6.19 Use and Approval

This approval does not authorise the use of the site as a Waste Transfer Station

- 2** That Council advise those who made written submissions and relevant external authorities of the Panel's decision.

Reasons:

- 1 The Panel generally agreed with the environmental assessment of the proposal, as outlined in the Council report, and had regard to additional information provided within a Council staff memorandum.
- 2 The proposal is permissible with consent and does not breach any development standards.
- 3 The development is generally consistent with the Plan of Management for the site. However, the considerations of that Plan emphasise the environmental sensitivity (biodiversity and aboriginal) and this favours a reduction in parking to meet the parking controls. In turn this will provide further retention of habitat on a sensitive site, which will also be more consistent with diagrams in the Plan of Management (extract below). This is not expected to compromise bushfire safety given access to the northern part of the site is still available from the south and the truck circulation area provides a greater buffer than to the western side, even with reduction in the northern parking area required by a condition in the decision above.



- 4 The zone interface issues identified as a concern in submissions and presentations to the Panel have been acceptably addressed by the design (including staggered height and setbacks from the street and landscaping), conditions (including amendments to those conditions) and is also aided by a wide intervening road to the east, and large adjoining lots.
- 5 Proposed signage is not consistent with the DCP. Some excess in size above DCP controls was warranted given the size and scale of the building, although not to the degree sought. This was addressed by a revised condition. The nature of the use is such that building signage should not be necessary for wayfinding considerations.
- 6 Environmental impacts, where they existed, were reasonably managed and mitigated by conditions of consent, including amendments made by the Panel

Votes

The decision was unanimous

4.1 DA 59362/2020 - 114 Oceano Street, Copacabana - Alterations and Additions to the existing dwelling, removal of three trees on the site and a proposed attached garage.

Relevant Considerations

As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report

- Supplementary Memo, 7 April 2021

Council Recommendation

Approval

Panel Decision

- 1 That the Local Planning Panel assume the concurrence of the Secretary of the Department of Planning to permit the non-compliance with the development standard under Clause 4.6 of the Gosford Local Environmental Plan 2014, in accordance with the provisions of Clause 64 of the Environmental Planning and Assessment Regulation 2000.
- 2 That the Local Planning Panel grant development consent to DA59362/2020 – 114 Oceano Street, Copacabana – Alterations and Additions to the existing dwelling, removal of three trees on the site and a proposed attached garage subject to the conditions in the schedule attached to the Council staff report to the Panel, with insertion of a new condition detailed below, and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act and other relevant issues.

Include a new condition to state:

Plant a minimum of three (3) replacement trees (advanced specimens min 25lt pot size). Replacement trees must be native species capable of achieving a minimum height of 5m. One of the three (3) replacement trees is to be planted within the front setback area, that is between the area within the front road boundary and front alignment of the dwelling. New trees are not to be located within an authority's service easement, or within 3m of an approved building. Where the replacement tree dies or is substantially damaged within five (5) years of planting, it must be replaced and maintained to maturity.

Reasons

- 1 The Panel agreed with the environmental assessment of the proposal, as outlined in the Council report to the Panel and had regard to additional information provided by memorandum.
- 2 The Panel had regard to the applicant's Clause 4.6 request regarding contravention of the Building Height development standard within Clause 4.3 of Gosford LEP 2014 and formed the view that the applicant's written request satisfactorily

addressed required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the development standard, notwithstanding the non-compliance, and granting consent was in the public interest.

- 3 Environmental impacts, where they existed, were reasonably managed and mitigated by conditions of consent, including amendments made by the Panel.
- 4 In terms of considering community submissions, the Panel noted no submissions were made.

Votes The decision was unanimous

4.2 DA 59637/2020 - 68 Railway Street Woy Woy - Stratum Torrens Subdivision

Relevant Considerations As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report
- Supplementary Memo, 8 April 2021
- Speakers

Council Recommendation Approval

Panel Decision That the Local Planning Panel defers determination of the application and invites the applicant to submit an amended proposal involving Torrens title subdivision of the heritage item and strata titling of the remaining two dwellings, with associated supporting information (including revised Clause 4.6 written requests). This should be received by Council within 21 days of publishing the decision and advising the applicant. Upon receipt of this information, the matter shall be subject of a further report by Council staff as soon as practicable, which may be determined by the Panel through electronic means.

Reasons There was common ground amongst the Panel that the proposal should be accompanied by a Clause 4.6 variation request regarding FSR. This was provided by the applicant and provided late to the Panel prior to the meeting, although not subject to analysis in the

Council report (due to a different conclusion by Council staff to the Panel regarding its necessity) and without sufficient time for the Panel to properly assess the request. The Panel was of the view this required further analysis prior to being able to determine the application (if it is to be approved).

However. In regard to subdivision (being the other aspect subject to a Clause 4.6 variation request), there was a difference in view amongst the Panel about whether the proposal, and specifically the form of subdivision sought, should be supported. The majority of the Panel (all but Jason Perica) were of the view that the proposal should be refused in the form put forward. Mr Perica generally agreed with the Council staff assessment report and the conclusions therein.

The key issue of concern for the majority of the Panel related to the very significant size of the variation requests to lot sizes and the potential precedent, as well as the applicant's core objectives being able to be facilitated in an alternative way. The applicant's stated objectives for favouring a Torrens Title subdivision were that this would facilitate accurate identification of the heritage item (being part of the site and not the whole site), and that the dwelling(s) and commercial heritage lot would have different funding needs and this may cause unfair distributed costs in a shared strata scheme. Both arguments had some merit, although legally a heritage item is as defined and described in Schedule 5 of the LEP, not the map. Despite this, separate Torrens titling of the heritage item would reduce potential confusion. It is agreed the heritage and other lots are likely to have likely different ongoing maintenance needs and thereby associated costs. Having regard to this and balancing the precedential issues, the majority of the Panel were of the view that a Torrens title of the heritage item and strata subdivision of the two dwellings was preferable, meeting key applicant objectives, with less adverse precedential outcomes. This could be facilitated by deferral and amendment, inviting the applicant to submit amended plans and supporting documents.

Mr Perica understood this rationale, although also saw the Torrens titling of the two remaining dwellings as being consistent in principle to strategic directions in the draft LEP, as argued in the Clause 4.6 variation request. However, on reflection and balanced consideration, Mr Perica accepted the position to protect the adverse potential precedent was a reasonable concern (given the potential Torrens subdivision of dual occupancies contemplated by the draft LEP would ordinarily be on larger lots) and supported the position of the majority of the Panel, as a reasonable compromise.

The amendments would not fundamentally change the proposal, although would require amendment of the proposal and some

associated documents, for further consideration and determination, which may be by electronic means.

There were late submissions claiming a procedural problem with availability of documents on-line during exhibition back in November 2020. Advice was received from Council staff, in summary to the effect that the proposal was notified in accordance with Council's policies, no advice about any problems was received by Council previously and that documents have, and continue to be, available on the website. The Panel was satisfied with the Council's position and it could not be certain if the claims made were due to any problem on the Council's or receivers part. The Panel also gave opportunity to late submitters (received on the day of the meeting) to address the Panel, which occurred for one submitter, albeit with ironic technical difficulties.

Votes The decision unanimous.

4.3 Request to Prepare a Planning Proposal for land between Bakali Road and Central Coast Highway, Forresters Beach

The Panel considered the report on the matter and a subsequent memo. The Panel supports in principle the strategic merit regarding potential rezoning of the site, and offers the following advice:

- The current zonings on the site/precinct warrant review and there is strategic merit in such rezoning including R2 lots for existing smaller residential lots around the perimeter of the site, an E2 zoning for environmentally significant land to the north-west, and open space zone for a local park and review of the large lots in-between for appropriate zoning and lot size(s).
- However, prior to Gateway submission, the Panel believes an access strategy (and funding principles) should be established in collaboration with Transport for NSW. This is important in order to establish a zoning hierarchy, open space location and to consider appropriate lot sizes, all of which are key aspects of the Planning Proposal.
- The open space should be located as close as possible to the surrounding community to be a wider community asset, not just the site.
- A drainage strategy should also be established prior to exhibition.
- The Panel does not share the view that all lot sizes and zoning must be consistent across the LGA. Lot sizes can and should be varied having regard to site-specific considerations, environmental constraints and surrounding context.
- DCP provisions (including access and drainage strategies and a funding/delivery mechanism such as a VPA) should be part of the exhibition package.
- The Panel had queried whether an E4 zone and 4,000sqm lot sizes for existing larger lots on the site may be appropriate. It is accepted that an E4 zone may not be appropriate due to the range of permissible uses. However, other

environmental zones or large lot residential zones should be considered, as the key aspects of transition from an E2 zone to surrounding environmental and R2 zones and larger lot controls, for lots on the site not on the edges, may not be best encapsulated in an R2 zone.

4.4 Request to Prepare a Planning Proposal for Parts of 121 and 129 Newling Street, Lisarow

The Panel considered the report on the matter and the material presented to the Panel by report and subsequent memorandum.

The Panel generally supports the proposal proceeding to gateway and offers the following advice:

- The strategic merit is predicated on the retail demand assessment by the applicant's consultant. This aspect should be subject to peer review by an independent consultant nominated by Council (which may be a list of potential consultants to avoid perceptions of conflicts), the cost of which should be met by the applicant/landowner seeking the changes. This should occur prior to Gateway as the strategic merit of the proposal is predicated on retail demand analysis.
- The FSR and Height needs further assessment and needs to be settled prior to exhibition. In principle, the approach of seeking statutory and strategic consistency with other R1 zoned land is sound.
- The proposed zoning appears appropriate given the context of the site. The location of adjoining services supports higher order residential uses facilitated by the R1 zoning (subject to testing the retail demand assessment). It is noted the land is physically separated by landform to the adjoining retail uses and is opposite other residential uses.
- Prior to exhibition an access strategy and drainage strategy should be developed. DCP controls (whether existing or site-specific) should be considered and it be clear on exhibition what supporting controls would apply to the site.
- A suitable funding mechanism for any infrastructure upgrades should be considered and addressed.

4.5 Request to Prepare a Planning Proposal – 6-8 Pacific Hwy, Wyong

- The Panel considered the report on the matter and the material presented to the Panel by report and subsequent memo. The Panel agrees the proposal should not proceed to Gateway and the Planning Proposal lacks both strategic and site-specific merit. The site was subject to flooding (including recent significant flooding), and is relatively small and constrained. The approach adopted by Council staff is consistent with other former "gateway" sites that have not been developed or progressed.

4.6 Request to Prepare a Planning Proposal for the draft Central Coast Local Environmental Plan Deferred Matters Land

The Panel considered the report on the matter and the material presented to the Panel by report and subsequent memo. The Panel supports the recommendation that the Planning Proposal proceed to Gateway and offers the following advice:

- There is a clear need and benefit to addressing deferred matters as a matter of priority, and given the disparate approaches and range of outdated planning controls that apply;
- The review of environmental land should be derived from considered and consistent principles (as intended to be done). This may also benefit a wider review at a later stage for the remaining LGA, given previous disparate approaches by Wyong and Gosford planning instruments.