

**MINUTES OF SOUTHERN REGION PLANNING PANEL HELD ON
THURSDAY, 20 MAY 2010 AT 1.00 PM**

Present

Pam Allan	Chair
Alison McCabe	Panel Member
Allen Grimwood	Panel Member
David Farmer	Panel Member
Professor Tim McCarthy	Panel Member

In Attendance

Andrew Carfield - Director Environment and Planning – Wollongong City Council
Mark Riordan – Manager City Planning – Wollongong City Council
Ron Zwicker - City Wide Development Manager – Wollongong City Council
Pier Panozzo - City Centre and Major Development Manager – Wollongong City Council
Theresa Whittaker - Senior Development Project Officer – Wollongong City Council

1 Acknowledgement of Country

2 Declarations of Interest – Nil.

3 Confirmation of Minutes

MOVED A McCabe seconded A Grimwood that the minutes of the meetings held on 18 March 2010 and 30 April 2010 be taken as true and accurate. MOTION CARRIED.

4 Business Item

DA-2009/1592 – aged care facility, independent living units, community facilities including hall, commercial premises and café, consulting rooms, piazza area and associated administration, services and car parking areas – 208 – 212 Corrimal Street and Beach Street, Wollongong

Senior Development Project Officer, Theresa Whittaker, gave an overview of the proposed development.

5. Public Submissions

Mr Terry Wetherall – Owner of Property in Beach Street

Mr Mark Sewell, Chief Executive Officer, Warrigal Care

Moved A Grimwood seconded A McCabe that an additional three minutes be allowed for Mr Sewell's address. MOTION CARRIED.

Alex Nott – Project Architect

Moved T McCarthy seconded D Farmer that an additional three minutes be allowed for Mr Nott's address. MOTION CARRIED.

Bronwyn Seiden – Planner

Moved A Grimwood seconded D Farmer that an additional three minutes be allowed for Ms Seiden's address. MOTION CARRIED.

Pam Allan (on behalf of Wollongong City Council Administrators) – Ms Allan advised that a letter from WCC Administrators was in support of the assessment report and recommendation to refuse the application

RECOMMENDATION

Moved A McCabe seconded A Grimwood that DA-2009/1592 be refused consent for the following reasons -

- 1 Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act, 1979, the proposed development does not comply with the provisions of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 in the following regards:-
 - A site compatibility certificate has not been issued by the Director-General in relation to the proposed development as required by Clause 24(2) of the SEPP;
 - Insufficient information has been provided to demonstrate that Clause 26 of the SEPP is complied with;
 - Clauses 28 and 30 have not been satisfied;
 - Insufficient regard has been given to the design principles contained within Division 2 of Part 3 of the SEPP, specifically those outlined in clauses 33, 34 and 37 in relation to neighbourhood amenity and streetscape, visual and acoustic privacy, accessibility and crime prevention. As such, pursuant to Clause 32 of the SEPP, consent cannot be granted;
 - Insufficient information has been provided to demonstrate compliance with the standards for self-contained dwellings contained in Schedule 3 of the SEPP. Consequently, consent cannot be granted pursuant to Clause 41(1) of the SEPP.
- 2 Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act, 1979, the consent authority is not satisfied (pursuant to Clause 101(2)(c) of State Environmental Planning Policy (Infrastructure) 2007) that the development is appropriately located and designed, or includes measures, to ameliorate potential traffic noise or vehicle emissions within the site of the development arising from the adjacent classified road.
- 3 Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act, 1979, the NSW Roads and Traffic Authority (RTA) has raised concerns in relation to the proposed development, particularly in regards to pedestrian safety and access for service/delivery vehicles. The consent authority, taking into consideration the submission of the RTA pursuant to Clause 104(3)(b) of SEPP (Infrastructure) 2007, is not satisfied of the traffic impacts of the proposed development.
- 4 Pursuant to Clause 50(1A) of the Environmental Planning & Assessment Regulation 2000, consent cannot be granted as the development application was not accompanied by a design verification from a qualified designer verifying that he or she directed the design and that the design quality principles

- set out in Part 2 of [State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development](#) (SEPP 65) are achieved for the residential flat development (being the independent living units building).
- 5 Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act, 1979, the consent authority must give consideration to the Residential Flat Design Code in accordance with the provisions of Clause 30(2) of [State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development](#) (SEPP 65). The proposed development does not comply with the provisions contained in Part 3 of the Residential Flat Design Code in relation to apartment layout and storage.
- 6 Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act, 1979, the proposed development is contrary to aims (e), (g) and (k) of State Environmental Planning Policy No. 71 – Coastal Protection (SEPP 71) set out in Clause 2. Further, the proposal is unsatisfactory when considered in light of the matters for consideration listed by Clause 8 of SEPP 71, particularly in relation to the following:-
- (d) the suitability of development given its type, location and design and its relationship with the surrounding area,
 - (f) the scenic qualities of the New South Wales coast, and means to protect and improve these qualities,
 - (g) measures to conserve animals (within the meaning of the Threatened Species Conservation Act 1995) and plants (within the meaning of that Act), and their habitats.
- 7 Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979, consent cannot be granted pursuant to Clause 139(2) of Illawarra Regional Environmental Plan No.1 (IREP 1) as the concurrence of the Director-General has not been obtained in relation to the height of the building. Further, the proposed development is contrary to the objectives outlined in Clause 138 of IREP 1.
- 8 Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979, the proposed development is not consistent with the objectives of the 3(d) Commercial Services zone under the provisions of Wollongong Local Environmental Plan 1990 (WLEP 1990). Consequently, consent cannot be granted pursuant to Clause 9(3) of WLEP 1990.
- 9 Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979, the proposed retail spaces do not comply with Clause 11 of WLEP 1990 and as such, are prohibited in the 3(d) Commercial Services zone.
- 10 Pursuant to Section 79C(1)(a)(i) of the Environmental Planning & Assessment Act 1979, the proposed development is not satisfactory with regards to the matters contained within Clause 32(1) or 32(2) of WLEP 1990. Specifically, the aesthetic appearance of the development is not acceptable and the proposal is not satisfactory with regard to vehicular access and manoeuvring for loading and service vehicles.
- 11 Pursuant to Section 79C(1)(a)(ii) of the Environmental Planning & Assessment Act 1979, the proposed development is not consistent with the provisions of Wollongong Local Environmental Plan 2009 in the following regards:-
- The proposed development is prohibited in the B6 Enterprise Corridor zone and SEPP (Housing for Seniors or People with a Disability) 2004 does not apply to the land;
 - The height of the independent living units building exceeds the maximum building height permitted pursuant to Clause 4.3 of the LEP;
 - The whole site is classified as containing acid sulphate soils. An acid sulphate soils management plan has not been provided as required by Clause 6.5 of the LEP.
- 12 Pursuant to Section 79C(1)(a)(iii) of the Environmental Planning & Assessment Act 1979, the proposed development does not comply with the provisions of Development Control Plan No.49 in the following regards:-
- Clauses 6.1 and 6.2 in relation to stormwater drainage and flooding;
 - Clause 6.6 in relation to fencing;

- Clauses 6.11 and 6.12 in relation to visual privacy, amenity and acoustic privacy;
 - Clause 6.14 in relation to threatened species assessment;
 - Clause 6.19 in relation to letterboxes;
 - Clause 13.7 in relation to built form;
 - Clause 13.8 in relation to driveways;
 - Clause 13.13 in relation to private open space dimensions;
 - Clause 13.15 in relation to adaptable housing;
 - Clause 13.19 in relation to safety and security;
 - Clause 13.20 in relation to storage;
 - Clause 13.22 in relation to site facilities;
 - Clause 13.23 in relation to fire brigade servicing.
- 13 Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development will have unacceptable traffic impacts. Firstly, vehicular manoeuvring for service vehicles does not comply with relevant standards which is likely to lead to conflicts with vehicles on Beach Street and those leaving the site. Secondly, the location of the western driveway does not comply with AS2890.1 which is likely to have road safety implications.
- 14 Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development has not been satisfactorily designed with regard to flooding and stormwater management.
- 15 Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the site is classified as containing acid sulphate soils. The proposal involves significant excavation works, including within close proximity to a watercourse. The applicant has not provided an acid sulphate soils assessment and as such, it is not known how acid sulphate soils will be managed.
- 16 Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development has not been designed having regard to pedestrian safety. Specifically, the development is likely to create unsafe pedestrian desire lines across Corrimal Street and there is no proposal to provide suitable infrastructure to address this issue.
- 17 Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed independent living units building may affect the pedestrian environment on the footpath of Corrimal Street through adverse wind effects. A wind effects report has not been supplied in this regard.
- 18 Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development may have an unacceptable impact on the threatened species Green & Golden Bell Frog which is known to inhabit the nearby watercourse known as Gurungaty waterway. An assessment has not been undertaken by the applicant in accordance with Section 5A of the Environmental Planning & Assessment Act 1979.
- 19 Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development may have unacceptable impacts on the endangered ecological community Swamp Oak Forest which occurs within the southern portion of the site and within the nearby watercourse known as Gurungaty waterway. An assessment has not been undertaken by the applicant in accordance with Section 5A of the Environmental Planning & Assessment Act 1979.
- 20 Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development is likely to have unacceptable impacts on a number of trees located within the site. The arborist report submitted with the development application is inadequate in this regard, inaccurately identifying the number of trees to be removed and the species of several trees, including some significant trees which may have conservation significance.
- 21 Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development will have an unacceptable visual impact having regard to the height, bulk and design of the proposed independent living units building.

- 22 Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development will have unacceptable impacts on the privacy and amenity of neighbouring residential dwellings. The position of the proposed loading dock/waste collection area and the balconies and windows on the northern side of the aged care facility will have adverse amenity impacts through noise transmission and direct overlooking respectively.
- 23 Pursuant to Section 79C(1)(b) of the Environmental Planning & Assessment Act 1979, the proposed development has not been designed having regard to all of the principles of crime prevention through environmental design. Specifically, the design of the car parking area and lift lobby areas may create opportunities for criminal or antisocial behaviour due to the lack of surveillance available and the concealment opportunities created within the car park layout.
- 24 Pursuant to Section 79C(1)(c) of the Environmental Planning & Assessment Act 1979, the land is not suitable for the proposed development having regard to the following matters:-
- Flooding constraints;
 - The existence of an endangered ecological community (Swamp Oak Forest); within the southern part of the site and adjacent to the watercourse located near the southern boundary of the site;
 - The existence of potential habitat for the threatened species Green and Golden Bell Frog within the watercourse located adjacent to the southern boundary of the site;
 - The current and proposed zoning of the site under the provisions of WLEP 1990 and WLEP 2009;
 - The position of the land in relation to recreation and other facilities which may only be accessed by crossing a classified road which carries significant volumes of traffic and which does not have infrastructure to ensure the safe crossing of pedestrians.
- 25 Pursuant to Section 79C(1)(e) of the Environmental Planning & Assessment Act, 1979, having regard to all of the above reasons for refusal, the proposed development is contrary to the public interest.

MOTION CARRIED.

The meeting concluded at 1.30 pm.

Endorsed by

Pam Allan
Southern Region Joint Regional Planning Panel
28 May 2010

Ms Allan advised that the Panel will next meet on 22 June 2010.