

4.1	22-26 Albert Street, 18 -22 Marmora Street, 5, 5A, 9, 15 & 21 Lawrence Street, Freshwater - Construction of Mixed Use Commercial/Retail and Residential Buildings within The Freshwater Village Centre
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SUPPLEMENTARY DEVELOPMENT APPLICATION ASSESSMENT REPORT

Reporting Officer:	Malcolm Ryan – Director - Strategic & Development Services
Address / Property Description:	Lot 1, DP 830423, No. 22-26 Albert Street, Lot 9, DP 10321, No. 18 Marmora Street, Lot 10, DP 10321, No. 20 Marmora Street, Lot 11, DP 10321, No. 22 Marmora Street, Lot 2, DP 581226, No. 21 Lawrence Street, Lot CP, SP 1172, No. 15 Lawrence Street, Lot A, DP 356986, No. 9 Lawrence Street, and Lot 394, DP 752038, Nos. 5 and No. 5A Lawrence Street Freshwater.
Description:	Demolition of existing buildings and construction of mixed-use retail and residential development comprising shop top housing buildings, a residential flat building and townhouse style buildings with 2 levels of basement car parking (within the Freshwater Village Centre).

Development Application No:	DA2010/1446
Application Lodged:	9 September 2010
Plans Reference:	A-0101 – A-0103, A-0200 -0217, A-0501-A0503, A-0601-0605 – prepared by SJB Architects.
Amended Plans:	No amended plans were submitted as part of this application.
Applicant:	Freshwater Village Developments Pty Ltd
Owner:	T & T Merillo Holdings Pty Ltd, T & F Holdings Pty Ltd

Locality:	H1 – Freshwater Beach & H2 - Harbord Village
Category:	<p><u>H1 – Freshwater Beach</u> Category 1 – Housing Category 3 – Basement Car parking servicing Housing (not on ground floor) and shops in the H2 locality.</p> <p><u>H2 - Harbord Village</u> Category 1- shops and Housing (not on ground floor). Category 2 - Housing on ground floor</p>
Proposed Clause 20 Variations:	<p>YES <u>H1 – Freshwater Beach</u> Housing Density <u>H2 - Harbord Village</u> Building Height</p>
Land & Environment Court Action:	No
Referred to WDAP	Yes - 1 December 2010- Category 3
Referred to JRPP :	Yes (Capital Investment Value >\$10m)

SUMMARY

Assessment Issues:	Matters raised by the Warringah Development Assessment Panel (WDAP)
Recommendation:	Refusal
Attachments:	Warringah Development Assessment Panel Minutes –Dated 1 December 2010.

PURPOSE OF THIS REPORT

At its meeting of 1 December 2010, the Warringah Development Assessment Panel (WDAP) recommended that the Joint Regional Planning Panel (JRPP) defer the determination of Development Application No.2010/1446.

The purpose of this report is to advise Council's position in relation to the determination of this application following the WDAP Panel's recommendation.

BACKGROUND

Development Application (DA2010/1446) was submitted to Council on 9 September 2010.

The application was assessed and reported to the WDAP meeting held on 1 December 2010 with a recommendation for approval. The purpose of the meeting was to hold an independent public hearing in accordance with Clause 15 of WLEP 2000 to consider the Category 3 component of the application.

In relation to the Category 3 component, the WDAP recommended as follows:

"The Panel generally concluded that the location of the access at the north-eastern corner of the site, being the low end of the site is the correct general location. Since the driveway would be underground at the points at which it enters the H1 locality of Freshwater Beach, it and the other Category 3 components of the underground car parking and the electrical switch room would have minimal impact and could be consistent with the Desired Future Character Statement for that locality. "

In considering the Category 3 component, the Panel must consider all associated aspect of the proposal and in this regard, the comments received from the Panel in relation to the remaining aspect of the proposal is summarised as follows:

"However other matters referred to above, in the Panel's assessment, indicate it is premature to determine the development application as:

- a) The application has yet to be considered by the Traffic committee, and traffic matters appear to require amended plans. Any changes have implications for the Category 3 components as well as the overall development, render any final proposal uncertain at this time.*
- b) Other draft conditions, and other matters referred to above also indicate that amended plans are necessary, and render any final proposal uncertain at this time.*

The recommendation to the Joint Regional Planning Panel is deferral of any decision on the proposal pending a clarification of the matters referred to in respect of Category 3 aspects of the development and subject to Joint Regional Planning Panel's consideration of the other matters referred to above.

Other matters of concern to the Panel was that in the H1 locality on the proposal site, there are three attached townhouses in one group in one group and an additional two attached town houses off Marmora Street. It is in this H1 locality that the development exceeds the allowable density. In looking at the developed nature of the street with existing detached smaller dwellings, it is the Panel's opinion, that these attached forms of townhouses do not maintain the character required".

“Among the other matters that the Panel felt may need closer consideration by the Joint Regional Planning Panel is the height of Building D at its eastern extremity where it adjoins intersection of Albert and Moore Streets. The building appears quite dominant in the streetscape and could comply better with the Village Character of the H2 locality if it observed the height limits at that end.

The panel had regard to the natural topography of the site, which is generally sloping in a westerly direction up from Albert Street. It is noted that the development has taken the option of excavating deeply to create a level site for the retail and residential components. This enables Building B and C to achieve 4 and 5 storeys, with minor exceedances of the height limit of 11m above natural ground level.

However, the buildings do exceeds the 3 storey limit for the H2 locality. The Panel assumes that the Desired Future Character Statement does have work to do in placing a limit of 3 storeys on development. That work is to control density because there is no floor space ratio or site coverage limits applicable. As a result, the buildings towards the western side of the site, even through they have minimal impacts on areas beyond the site, they do exhibit a character that is not strictly in keeping with the storey limit and scale envisaged for the H2 Locality. The applicant has used the lack of impacts to justify the Clause 20 exception”.

In light of the concerns raised by the WDAP and the fact the deferral of the application would be inconsistent with the JRPP time frames for determining Development Applications, refusal of THE application is recommended. Accordingly, Council would therefore recommend that the Joint Regional Planning Panel (JRPP) refuse the application in its current form.

RECOMMENDATION (REFUSAL)

That the Joint Regional Planning Panel (JRPP) for the Sydney East Region, as the consent authority, refuse Development Application No: DA2010/1446 for the demolition of existing buildings and the construction of a mixed-use retail and residential development at Lot 1, DP 830423, No. 22-26 Albert Street, Lot 9, DP 10321, No. 18 Marmora Street, Lot 10, DP 10321, No. 20 Marmora Street, Lot 11, DP 10321, No. 22 Marmora Street, Lot 2, DP 581226, No. 21 Lawrence Street, Lot CP, SP 1172, No. 15 Lawrence Street, Lot A, DP 356986, No. 9 Lawrence Street, and Lot 394, DP 752038, Nos. 5 and No. 5A Lawrence Street Freshwater for the following reasons:

1. Pursuant to Section 79C(1)(a) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the provisions of *Warringah Local Environmental Plan 2000* in that the development is inconsistent with the Desired Future Character of the H1 Freshwater Beach locality in the following respects;
 - Future development will not maintain the visual pattern and predominant scale of detached style dwellings in landscaped settings.
2. Pursuant to Section 79C (1) (a) Environmental Planning and Assessment Act 1979, the proposed development (i.e. Buildings A, B, C, and D) is inconsistent with the Building Height built form control for the H2 ‘Harbord Village’ locality in Warringah Local Environmental Plan 2000.
3. Pursuant to Section 79C(1)(a) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the provisions of *Warringah Local Environmental Plan 2000* in that the development is inconsistent with the following ‘General Principles of Development Control’;
 - Clause 72 – Traffic Access and Safety
 - Clause 75 Design of carparking