

**SUBMISSION TO JRPP FOR CONSIDERATION AT MEETING OF
2 FEBRUARY 2010 – ITEM NO. 2010SYE078
16-20 LODGE ROAD, CREMORNE – DA NO. 358/10
DEMOLITION AND ERECTION OF DWELLING WITH ASSOCIATED PARKING**

EXECUTIVE SUMMARY

This submission has been prepared on behalf of the applicant for the above application, Leda Holdings Pty Ltd, in response to the Council assessment report prepared for consideration by the JRPP.

This submission addresses areas where the assessment is not agreed with and proposes amendments to the dwelling to address issues of concern raised within the report, particularly in relation to view loss.

This submission also requests that should the JRPP support the Assessing Officer's opinion but agree that the proposed amendments would satisfactorily resolve the outstanding concerns with the proposal, it approve the application subject to conditions or defer it to allow the submission of amended plans.

It is clear from the assessment report that the assessing town planner and the Design Excellence Panel consider the application to have merit, but to require some changes to address concerns in relation to view sharing, visual bulk and to a lesser degree landscaping. The amended plans proposed would, in my opinion, satisfactorily resolve those concerns as is shown in the following attached sketches:

- SK-242 Shows a reduction in the proposed area of the entertainment rooms at Level 3 in order to improve view sharing with No. 22 Lodge Road
- SK-243 Shows the lowering of floor to floor levels, relocation of the tennis court and redesign of the parapet/landscape boxes at Level 4 and a redesign of the awning to the balcony at Level 3 to improve view sharing with No. 22 Lodge Road

RESPONSE TO ASSESSMENT REPORT

The following response is made to the assessment report for consideration by the JRPP.

The response has been prepared by reference to the headings and page numbers of the assessment report for ease of understanding.

Landscaping (pp. 5-6)

The landscaping assessment is generally supportive of the application, supporting the removal and/or relocation of trees as proposed, but seeks the provision of additional landscaping as follows:

- The provision of *“some further Angopheras’, appropriately located and the proposed sizes should be increased to say a minimum of 100 litres”*

The applicant agrees to the above additional landscaping measures and undertakes to provide details on an amended landscape plan.

Design Excellence Panel (pp. 9-10)

The Design Excellence Panel considered the application in its original form (but has not commented on the amended plans submitted in response to the issues of concern raised by that Panel). In its assessment of the application, the Design Excellence Panel was generally supportive of the proposal, indicating that the proposal *“was generally sympathetic to its surrounds in that it is located to the centre of the site at the base of the steep slope opening to the level foreshore area”* and whilst not discussing the breaches of the controls, indicated that *“the height and setbacks were in context with the surrounding development”*.

The main issue raised by the Design Excellence Panel in relation to the application was the appearance of the dwelling from the foreshore/water, indicating that the houses in this area are *“generally of a similar width with gaps between each dwelling”*, being *“higher than they are wide creating a series of vertical elements with gaps visible from the foreshore”* and that the dwellings are mediated by *“large trees located on the foreshore every two to three dwellings.”*

In response to the proposal the Design Excellence Panel recommended the following:

- *“Some additional landscaping of the foreshore area including the retention of the stand of palm trees to the south of the outdoor pool: more planting north of the north east corner of the dwelling and more planting north of the north west corner of the dwelling.”* The recommended species were Angophera, Eucalyptus or other large open canopy species indigenous to the locality.
- To address the perceived horizontal form of the dwelling, the *“scale would be improved by clear articulation of its northern façade into three parts that would be consistent with the widths and scale of the existing dwellings along the foreshore.”* The suggested divisions were to be located where the façade changes direction and in the centre, where there is a widening of the verandah and the use of a heavy pergola structure along the edge of the tennis court would also improve the scale.

In response to the above raised concerns a meeting was held with the assessing town planner and options for altering the façade treatment were discussed. I am advised that the option of providing a strong central treatment to the front of the balconies (as is shown in the amended plans and represented in the attached photomontage) was discussed as being appropriate as treatment to the sides of the façade or at the tennis court level would be likely to impact on neighbouring property views, and I am advised that this approach was agreed to at the meeting. The current plans being considered by the JRPP include these amendments (and have not been considered by the Design Excellence Panel) and in my opinion these, together with the other suggested changes within this submission, will result in the proposal having an appropriate visual presentation as viewed from the foreshore/waterway. I note that the assessing town planner indicated that further articulation of the elevation may be provided at the western and eastern ends when addressing view sharing, and this is proposed and discussed elsewhere in this submission.

The above suggested additional landscaping has been in part included in the current amended landscape plan and will be supplemented as discussed previously, ensuring appropriate “softening” of the façade as viewed from the foreshore/waterway.

Building Height (pp. 17-22)

The assessment of building height confirms that the proposal, in part, is in breach of the 8.5m height limit applicable to the site, with the western side which corresponds to the location of the higher side of the topography complying, with smaller breaches centrally towards the foreshore due to the steep slope and with the eastern, lower side breaching, together with parts of the rear of the garage/storage and lift structures (again due to the steep topography of the site).

The assessment concludes that the relevant objective for the height control is to limit height to heights similar to or the same as characteristic building heights in the area and that the *“number of storeys is consistent with surrounding development”*, and the breach of the control is *“not the result of excessive excavation”* and that *“overshadowing is not an issue with the height”*. As such, the assessment indicates that the only objective of the height control that is unsatisfied by the proposal is the requirement for the retention and sharing of existing views in relation to the dwelling at No. 22 Lodge Road.

Extensive assessment was made of the potential view impacts upon that property (and upon No. 14 Lodge Road and N0. 2 Shellbank Parade) during the design phase (as is evidenced by the view diagrams submitted with the application and contained throughout the assessment report),.

The method of assessing the requirement for view sharing is not concurred with for the following reasons and an alternative solution is proposed for consideration by the JRPP.

It is not considered that a base position of retaining views of the foreshore/water interface from all levels of the dwelling at No. 22 Lodge Road is a reasonable position as in assessing the view from No.22 the assessment officer has not taken into consideration the implications a complying development conforming to the height controls would have on this view. – as shown on the attached diagram SK-238. It is not agreed that the necessary remedy to any view impacts is the removal of the entire entertainment level.

The location of the dwelling on the site has been guided during the design phase by several competing factors on what is a challenging site to develop, given its steep slope, its susceptibility to flooding and the competing view sharing interests of adjoining property owners. A logical, and more easy to develop, location for the placement of the dwelling is further forward on the site (towards the foreshore), behind the foreshore building line and behind a line created by connecting the adjoining corners of the two immediately adjoining buildings.

This would have resulted in a compliant building in terms of the height control (and the building height plane control) and was initially considered. However, a dwelling in such a location would have necessarily had more significant impacts upon side views from the adjoining property at No. 1 Shellbank Parade and would have required the dwelling to be more substantially raised to comply with freeboard levels for flooding reasons, which would have additionally impacted upon the views from No. 22 Lodge Road.

The above described compliant development would have resulted in the loss of foreshore/waterway interface views of the southern side of the bay from the lower level terrace of No. 22 Lodge Road as is shown in attached View Analysis Diagram SK-240. This diagram shows two view lines showing the impact upon foreshore/water interface views of a compliant 8.5m high development located as identified above, with the two different view lines showing the difference in the view affectation across the slope of the site. As can be seen, foreshore/water interface views would be lost from this terrace with a compliant development located in that position.

However, as such a location would also have significant view impacts upon side views from No. 1 Shellbank Parade, it is more appropriate to locate the proposed dwelling further up the slope, such as is proposed.

Therefore, this level of view impact is, in my opinion, an appropriate base position from which to assess the suitability of the view sharing impact of the proposed dwelling as it represents a view impact of a compliant development on the site. It would therefore be appropriate that any development located upslope

be kept within this view line, thereby retaining a similar view to that compliant development, whilst retaining views to No. 1 Shellbank Parade.

The proposed amended plans are shown by sketches SK-243 and SK 242 and would achieve the same level of view impact as the abovementioned compliant development.

SK-243 shows the dwelling being lowered by a reduction in floor to floor heights, the tennis court being relocated southward, the removal of the northern planter box in the location of the view corridor and the redesign of the awning over the Level 2 balcony within the view corridor. These amendments would allow for the retention of the same level of view sharing over the northern edge of the tennis court level as the abovementioned compliant development and as such in my opinion would result in an appropriate level of view sharing.

SK-242 shows a reduction in the size of the entertainment level such that the view corridor available to No. 22 Lodge Road from the lower level terrace would be unaffected by it. This has been achieved by a reduction in the width of the entertainment level from the western end such that it is no longer within the view corridor of the foreshore area, resulting in the blocking of views only to the dwelling at No. 1 Shellbank Parade, not any part of the foreshore. As such, whilst the entertainment level would still breach the height control, it would no longer have an unacceptable impact upon the views from the lower level terrace of No. 22 Lodge Road.

Consequently, the above design changes would also significantly reduce any view impacts upon the upper and middle level terraces of No. 22 Lodge Road and I am of the opinion that these design changes would result in a reasonable level of view sharing with No. 22 Lodge Road and that as such the SEPP 1 objection could be supported to the building height control on that basis.

Building Height Plane (pp 22-25)

The assessment of building height plane confirms that the proposal, in part, is in breach of the building height plane applicable to the site, with breaches to part of the western, eastern and southern facades.

It is noted that the building height plane is a control that is routinely varied in this locality due to the topography of the area and that it would appear that all of the surrounding properties are at least in part non-compliant with the control.

The assessment report indicates that the breaches of the building height plane control are *“a direct result of the slope of the site and in particular of the cross fall of the site, and of the need to raise the ground level to ensure the dwelling is above the predicted future rise in sea level, ensuring it will not flood in high tide events”*. The report concludes the breaching elements *“do not result in any*

material impacts with regard to loss of ventilation or access to daylight, with the separation of the dwellings being appropriate notwithstanding the breach". Further, the report indicates that "the bulk and scale of the dwelling is appropriate to the location and is commensurate with dwellings in the locality" with the breaching elements of the garage/entrance structures resulting in "no change to the streetscape and no material additional impacts."

The report indicates that *"given the extreme slope of the site and the large cross fall, requiring strict compliance with the control would negate any possibility of reasonable redevelopment of the site and would be contrary to the objects of the Act" and would require "more of the bulk of the building to be located centrally within the site, significantly reducing views from No. 22 Lodge Road."*

The assessment concludes there to be no material impacts upon shadowing or privacy, with the only concern with the breach of the building height plane being in relation to view impacts in relation to No. 14 Lodge Road and bulk and scale impacts in relation to the north-west corner of the dwelling upon No. 14 Lodge Road and in relation to the entertainment area upon No. 2 Shellbank Avenue.

It is noted that the view impact assessment is not complete in that it does not identify the existence of expansive and uninterrupted views to the north from the three levels of the dwelling and from the rear yard of No. 14 Lodge Road, including from several levels of terraces. It is noted that the Land and Environment Court View Sharing Principle requires consideration of view impacts having regard to the whole of the viewing opportunities available to a property and not just in relation to the impact upon the affected views. Further, it is emphasized, that the view affected is one across a side property boundary, which is a view that is identified in the Planning Principle as a particularly vulnerable view that may not be able to be retained.

I note that whilst the photographs on pages 24 and 25 of the report may have been taken from the lower and the mid level terraces (I was not on the property when they were taken), the referenced view diagrams submitted with the application were both prepared from the viewpoint of the lower level terrace. I note that this is referenced in the text of my Statement of Environmental Effects, however during editing arrows pointing to the location of the viewing positions on a photograph moved and may have caused some confusion to the assessing officer, and I apologise for this editing error.

The differences in the views provided are that one is taken from the circulation area of the terrace and the other from the entertainment area of the terrace where the outdoor dining setting is located.

A review of the height poles erected on site will enable the JRPP to determine the extent of impact on the view across the side boundary which we contend is not a principal view and note that if the amendments to storey heights proposed

in relation to the view issues from No.22 Lodge Road are adopted these would reduce impacts on this view.

In relation to the concern raised with regard to the visual bulk impact of the entertainment level upon No. 2 Shellbank Parade, I do not concur with the assessment within the report that the visual impact is unacceptable. In this regard I note that the closest edge of the entertainment level is located approximately 11m from the nearest side window of that property and that whilst there is a reasonably large breach of the building height plane measured from the boundary with the adjoining drainage reserve that separates the two properties, the breach when measured from the boundary of No. 2 Shellbank Parade is significantly less.

I also note that the constructed drainage infrastructure is not located within the drainage reserve owned by Council, but rather is located largely within my client's property, though there is no legal right for it to be so located, with the drainage reserve area being occupied by a significant level of landscaping. Given the location of the drainage infrastructure and the fact that there is significant landscaping within the drainage reserve (which is unlikely to be removed given it is on Council land), I am of the opinion that the entertainment level would not be significantly visible from the side windows of No. 2 Shellbank Parade, nor from the side yard areas. In this regard, any views of this component of the dwelling would be heavily filtered by the vegetation (seen in the photograph below) and would also be screened by the proposed planting in the 2m wide planter box to the east of the structure, which can support substantial screen landscaping. I am therefore of the opinion that the visual bulk of this element is acceptable as viewed from No. 2 Shellbank Parade and as such a SEPP 1 objection to the building height plane in this regard should be supported.



No. 2 Shellbank Parade seen over the top of the existing shed on the site, note the extensive vegetation which will filter views of the entertainment level.

Submitters Concerns (pp. 32-33)

The assessment report addresses the concerns raised by the objectors in this section and concludes that the only concerns that are supportable relate to bulk and scale as viewed from No. 14 Lodge Road and No. 2 Shellbank Parade and from the foreshore/waterway, tree preservation and view impacts upon Nos. 14 and 22 Lodge Road.

All of these concerns have been addressed above, I am of the opinion that the proposed modifications to the design offered by the applicant would satisfactorily resolve all of these concerns.

CONCLUSION

This submission has addressed items in the assessment officer's report which are not agreed with and proposes amendments to the current application to address the issues of concern raised within the report, particularly in relation to view loss and visual bulk.

This submission also requests that should the JRPP be of a view that the proposed amendments will satisfactorily resolve the outstanding concerns with the proposal, it either gives a conditional approval or defer consideration of the application to allow the submission of amended plans.

This is requested as it is clear from the assessment report that the assessing town planner and the Design Excellence Panel consider the application to have merit, but to require some changes to address concerns in relation to view sharing, visual bulk and to a lesser degree landscaping.

The proposed amendments would, in my opinion, satisfactorily resolve those concerns and allow for the SEPP 1 objections to the building height and building height plane to be supported and the application approved.

Kerry Gordon
Director
Kerry Gordon Planning Services Pty Ltd
1 February 2011