

Advice to Shoalhaven City Council

Development Application RA 11/1003

11-17 Fegan St Huskisson

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1 Introduction

Purdon Associates were requested by Shoalhaven City Council to undertake a review of a Development Application for 11-17 Fegan St Huskisson. The review was to be undertaken in the context of the previous report prepared by Purdon Associates in November 2010 (*Review of Huskisson Urban Design Strategy [3(g) Zones]*), referred to as the *Purdon Report*.

The land, the subject of the application is within Precinct 1 as defined in DCP 99 (Draft Amendment 1).

We understand that Council adopted certain development controls for Precinct 1 on 1st February 2011, in advance of finalisation of Draft Amendment 1 to DCP 99. The key elements of Council's resolution, as it applies to this specific development proposal include:

- 3 storey / 10m height limit
- Floor Space Ratio (FSR) of 1:1
- 3rd level recessed from front building alignment

Additional provisions were incorporated into DCP 99 and the revised draft amendment was placed on public exhibition. While the provisions of Council's February resolution were not part of the exhibition, the proponent for the subject Development Application challenged the findings of the Purdon report in a submission to the amended DCP and suggested Council should not have adopted the height limits and FSR controls for Precinct 1. The proponent's submission to the DCP included supporting material from *Watkinson Apperley P/L* (Surveyors Engineers & Town Planners), plus *Walsh & Monaghan P/L* (Valuers) and *All Over Property Valuations P/L*. Our response to the proponent's submission to the draft DCP is provided in Section 3 below.

In addition, the proponent lodged supporting documentation with the Development Application challenging the findings of the Purdon Report. Our response to the proponent's DA submission is provided in Section 4 below.

2 Purdon report

A primary aim of the Purdon Report was to provide a peer review of the *Ruker Urban Design Strategies*. In particular it was to consider whether the strategies appropriately reflect the attributes of each Precinct and whether they would achieve their objectives.

In addition, the Purdon report presented a number of case studies to assist in Council's consideration as to whether the proposed planning controls were likely to inhibit development in the precincts to which they applied.

Five 'generic' development scenarios were considered (with differing height and FSR controls) and reviewed against broad development cost criteria and development return estimates. The costs and returns were further considered by a registered Valuer on behalf of Purdon's using Estate Master – Development Feasibility Property Software.

The scenarios used were based on hypothetical development on a 1,000m² lot. The assumptions used in the assessments were general in nature, but were considered to be relevant to Huskisson.

Council's review of the Purdon Report resulted in Council adopting the planning controls used as the basis of Option 'C' for Precinct 1. This option was based on development controls limiting buildings to 3 storeys in height and an FSR of 1:1. The initial conclusions of the Purdon Report in relation to Option C were that *"the return on investment is considered to be below the minimum level of return for a developer to enter into the project. The associated risks would likely result in investment in other localities rather than Huskisson."*

The 'generic' assumptions made were further refined for two case studies of a larger parcel of land in Precinct 1. The property considered for the case studies is the same property that is now the subject of the current Development Application.

The case study in relation to the FSR 1:1 & 3 storeys option concluded that a more acceptable return on investment could be achieved with some economies of scale in relation to site works, marketing and design fees plus a significant reduction in construction costs through design outcomes that incorporated at least some non-basement parking. Although basement parking provides the best urban design outcome, the case study proposed that some surface parking accessed directly off Kent Lane could be provided. This approach acknowledged that this laneway would function primarily as a service lane and not an area of high quality public domain.

Based on the further consideration of the Case studies in Precinct 1, the key conclusions of the Purdon Report were:

- The Floor Space Ratio of 1:1 is considered the most appropriate to achieve an acceptable urban design outcome consistent with the desired future character of Huskisson and a realistic development opportunity for the market.
- The existing and proposed limitation on two storey heights with a third storey set back from the street and not comprising more than 70% of the area of the floor below, is considered an excellent urban design outcome, but limits development opportunities under current and expected short-mid term financial circumstances.
- The 1:1 FSR, combined with 3 storey height limits determines the bulk and scale of new buildings. These planning controls result in an acceptable level of development while ensuring buildings are small in scale consistent with the nature of the area. This is consistent with the Ruker Urban Design Strategies.
- The extent of buildings fronting the street to be limited to ensure small scale buildings which would require large sites to be designed having a number of separate buildings. This in turn limits the overall bulk and scale of individual buildings and ensures that the increased density will not have a substantial detrimental impact on the character of the area (Precinct 1).
- The existence of overhead power lines and the desire of residents to maximise views will likely mean that landscaping adjacent to development will never be a dominant streetscape element. The visual setting therefore relies on existing trees to complement the significant landscape setting adjacent to the foreshore. The built form should not dominate this landscaped setting.
- The introduction of controls that require individual building not to exceed 20m separated by at least 3m would achieve the objective for small scale buildings.
- The incorporation of the key aspects of the "Design Guide" (Part C of the Urban Design Strategy) as planning controls in the draft DCP amendment is considered

a critical component of the success of achieving the objectives and principles of the Strategy.

These matters are addressed in more detail in Section 4 below in relation to the Development Application for the subject site.

3 Proponent's Submission on DCP

The owner of 11-17 Fegan Street lodged a submission in response to the amended draft DCP incorporating reports from Watkinson Apperley P/L (Surveyors Engineers & Town Planners), plus Walsh & Monaghan P/L (Valuers) and All Over Property Valuations P/L.

3.1 Watkinson Apperley submission

The key issues raised in the *Watkinson Apperley* submission (inter alia) included:

1. support for the aims of the DCP
2. support for the Urban Design Principles outlined in the DCP
3. concern that DCP penalises lot amalgamation and suggesting that “in most cases, to achieve a viable development, lot amalgamation is required
4. that desired scale of buildings and desired future streetscape is not described
5. opposition to density controls suggesting that the economic assessment of the Purdon Report was flawed.

3.1.1 Purdon response

1. The support for the aims of the Draft DCP is noted
2. The support for the urban design principles of the draft DCP is noted. However, Section 4 below highlights a number of areas where the proposed development is inconsistent with the design principles of the DCP.
3. The Purdon Report specifically commented on lot amalgamation acknowledging that it has been past practice for some of Shoalhaven planning controls to provide an incentive to amalgamate lots in higher density residential zones. The case studies prepared in the Purdon Report indicate that lot amalgamation could be counter-productive to achieving the desired urban design outcomes for this Precinct. For this reason, additional controls were recommended to prevent long continuous building façades and require separation of buildings. On this basis, the DCP deliberately provides no incentives for lot amalgamation. Purdon's disagree with the statement by *Walsh & Monaghan* that lot amalgamation is required for a viable development. We submit that small scale developments on lots of around 1,000m² are feasible, which is confirmed by the current construction of 3 storey apartments on the adjoining property at 19 Fegan St.
4. The desired scale of buildings and desired future streetscape character is expressed throughout the draft DCP. These are outlined in numerous Objectives, Performance Criteria and Acceptable Solutions. Specifically, the following Objectives establish the framework for desired character and built form:
 - To ensure that land use of Precinct 1 is cognisant of the urban design principles for the precinct
 - To ensure that amalgamated sites do not result in large, bulky buildings
 - To provide highly modulated buildings to reduce the bulk and scale of the buildings

- To provide building forms that create distinctive, attractive and pedestrian friendly coastal town streets
- To establish a well proportioned rhythm between buildings consistent with a residential streetscape
- To ensure development enhances and makes a positive contribution to the character of existing streetscapes, reinforces the function of the street and is sensitive to the landscape and environmental conditions of Precinct 1.
- To ensure built forms do not dominate existing landscape setting
- To reduce the impact of building bulk created by large unbroken expanses of wall

Each of these objectives are supported by associated Performance Criteria and Acceptable Solutions in the draft DCP. These provisions provide a comprehensive outline of the desired building scale and desired streetscape character.

5. The claim that the economic assessment used in the Purdon Report was flawed relies on further advice from *Walsh & Monaghan* which is outlined below.

3.2 Walsh & Monaghan submission

The key issues raised in the Walsh & Monaghan submission, in relation to the Purdon Report, included:

1. Gross realisation from sales would appear to be over inflated
2. Sales and marketing costs are not adequate
3. Construction costs appear adequate
4. No allowance has been made for GST on sales or GST input credits throughout the project
5. The 2 year time period to sell a development is not adequate and a 7 year period is considered optimistic
6. The adopted land values are arbitrary.

3.2.1 Purdon response

1. The economic analysis presented as part of the Purdon Report is not property specific with the five scenarios considered on a hypothetical site. The initial analysis included a summary of estimates of likely costs and revenue to demonstrate how planning controls influence the project outcome. As far as possible, inputs to each option remained constant to enable the project return to be compared. This assessment was further tested using Estate Master Property Software.

It is not appropriate to extract and consider one of the options in isolation and even less appropriate to view one option as representing a development study on a specific site. In addition, it is not appropriate to examine the data within the Estate Master summary in the Purdon Report for the purpose of considering the results against assessments undertaken for a specific development proposal for a much larger project on a specific site.

Further, the figures for gross realisation for one development scenario for a small number of units should not be applied to a much larger project as the on-completion values of the larger unit numbers will be affected by the development

scale/unit numbers. Similarly it is not appropriate to extrapolate construction costs to a larger development.

The Estate Master assessment in the Purdon Report allowed for interest on the cost of all funds employed, irrespective of whether the funds were borrowed or were equity.

2. The *Walsh & Monaghan* submission does not provide details on sales figures, however, the *All Over Valuation* submission includes further details on property values. Our response to the All Over Valuation submission is outlined in Section 3.3 below (page 7).

The Purdon Report used a marketing cost of 4% of project cost for the five generic scenarios. This was reduced to 2% for the Case Study as it was considered a larger scale development could achieve cost savings. This equates to \$509,000 for Case Study 1 and \$676,000 for Case Study 2. In contrast, the *Walsh & Monaghan* submission (summary Estate Master sheet) suggests this figure should be \$1.285M. While Purdon Associates are not privy to the actual fees charged by local Huskisson real estate agents, we consider the figures used in the Purdon Report are quite appropriate for the purposes of the assessment.

3. The Estate Master assessment in the Purdon Report calculates interest across a two year development period. The generic options, upon which the Estate Master assessment was based involved between 6 and 14 units. A development is unlikely to commence until at least half of these are sold, so a two year timeframe for such a development was considered appropriate as the development program only required a small number of sales in two years. Walsh & Monaghan suggest a nine year development and sales period should be used in the calculations. Such a long period for a construction project is not considered feasible without the development being made up of clear and independent stages to reduce peak debt and risk. A development of such length would ordinarily be brought to account by the Developer requiring a significantly higher margin on costs (allowance for Profit and Risk), thus substantially reducing the residual land value, that is, the amount that could be paid for the land to successfully undertake the development and achieve the required returns
4. We note that *Walsh & Monaghan* accept that construction costs used in the Purdon Report appear adequate. However, we also note that the Development Application form states the estimated construction costs for the 46 unit development are \$11M. The Purdon Report uses a general construction cost rate of \$2,750/sqm plus a cost of \$50,000 per space for basement car parking. If the Purdon construction costs were applied, this figure would be over \$20M ($5,664\text{m}^2 @ \$2,750/\text{m}^2 + 90 \text{ basement spaces } @ \$50,000 = \$20,076,000$). The construction cost rate used by the applicant in the Development Application equates to approximately \$1,350/m² including basement. Assuming the applicant has provided a genuine estimate of construction cost, the significant reduction in costs would substantially enhance overall project viability.
5. The Estate Master summary in the Purdon Report excluded GST from all five options as it was the relative (not the quantum) return on equity between each option that was being measured.
6. The adopted land values in the Purdon Report are deliberately arbitrary as they are used primarily for comparison purposes between the different scenarios. It is

noted that the land at 11-17 Fegan Street was purchased for significantly less than the values used in the Purdon Report.

3.3 All Over Valuation submission

The key issues raised in the *All Over Valuation* submission included:

1. Sales for home units should not be compared with townhouses
2. Valuations for units should be \$390,000 for ground floor units, \$430,000 for first floor units, and \$450,000 for upper floor units

3.3.1 Purdon response

1. The Purdon Report does not use townhouse sales data, but has used the development at 42 Bowen St as an example of potential sales returns. The All Over Valuation submission claims the development at 42 Bowen St is a townhouse development. Purdon's submit that it is an apartment development and consideration of sales figures realised for this development are relevant for the purposes of the assessment provided to Council.
2. The Purdon Report uses sales price assumptions of \$600,000 for ground floor units, \$675,000 for first floor units and \$700,000 for upper floor units. There are very few developments within Huskisson that can be used for comparison purposes. The existing development at 42 Bowen St and a proposed development at Beach St (Tapalla Apartments) were used for comparison purposes. A review of various real estate web sites on 11 October 2011 (realestate.com.au, domain.com.au, allhomes.com.au) highlighted that the units were being offered for sale commencing at \$599,000 up to \$1.3M, as detailed in the following table:

Table 1: Tapalla Apartments – Cnr Beach & Jervis Sts

| Units for Sale | Price | Unit Area | Bed | Bath |
|------------------------------|-----------------------|-------------------|-----|------|
| Unit G.02 | \$1,299,000 | 159m ² | 3 | 3 |
| Unit 1.01 | \$649,000 | 122m ² | 3 | 2 |
| Unit 1.03 | \$929,000 | 153m ² | 3 | 2 |
| Unit 2.02 | \$619,000 | 106m ² | 2 | 2 |
| Unit 2.03 | \$949,000 | 153m ² | 3 | 2 |
| Unit 3.02 | \$1,299,000 | 148m ² | 3 | 2 |
| Units "sold" (see note) | Price Range | | | |
| Unit 1.02 (25 February 2011) | \$550,000 - \$645,000 | | | |
| Unit 1.04 (8 April 2011) | \$600,000 - \$700,000 | | | |
| Unit 2.01 (11 February 2011) | \$610,000 - \$710,000 | | | |
| Unit 2.04 (17 February 2011) | \$615,000 - \$720,000 | | | |

**Note – The development is not yet constructed. As such, the strata plan would not be registered and the sales could not be finalised. The price range is the range provided by the advertisement for the unit at the time the unit was 'sold' (or a holding deposit was paid)*

The sales details for the Bowen Street apartments are as follows:

| | | |
|------|-----------|---------------|
| 1/42 | \$780,000 | 26 May 2011 |
| 3/42 | \$785,000 | 21 May 2010 |
| 4/42 | \$735,000 | 10 May 2011 |
| 5/42 | \$730,000 | 13 March 2010 |

(source: allhomes.com.au)

While the figures for the Tapalla Apartments may not necessarily be realised, the upper floor unit asking price of \$1.3M (or \$949,000 for 2nd floor units) is significantly different from the \$450,000 estimate provided by *All Over Valuations*.

Purdon Associates are not registered valuers and must rely on data provided through the various real estate sources. However, we submit that the figures used in the Purdon report (i.e. range of \$600,000 - \$700,000) are reasonable for the purposes of Council's consideration. While units in Bowen St and Beach St may have some advantages over the Fegan St site we do not accept that those advantages would translate in sale prices where units in the Fegan St development would be only $\frac{1}{3}$ to $\frac{1}{2}$ the price of other apartments, based on the figures used by *All Over Valuations*.

4 Development Application

Purdon Associates have undertaken a review of the plans and supporting documentation submitted with the Development Application. However, our role was to consider the proposal in the context of the matters raised in the Purdon Report and the recommendations of the Ruker Urban Design Strategies which were incorporated into the revised DCP 99 Amendment 1. Therefore, the following comments do not purport to be a complete review of the Development Application.

The following table summarises some of the key design elements from the DCP which the proposed development is considered to be inconsistent with:

| Design Element | Required by Draft DCP | Proposed Development |
|-------------------|--|--|
| Height | 10m | 13m |
| | 3 storeys | 4 storeys |
| Floor Space Ratio | 1:1 | 1.4:1 |
| Front setbacks | 5m to Fegan St and Kent Lane | First floor terraces setback approximately 1.5m from Kent Lane |
| Side setback | 1.5m | 3m to building but less than 1m to terraces |
| Basement | Max 1m out of ground | 1.5m above ground in S-E corner |
| Building Form | Small scale buildings | Building is considered large scale |
| | Maximum overall building length 20m (separation minimum 3m) | Building length is in excess of 66m |
| | 3 rd level recessed by a minimum 4m from building line below | 3 rd level is not recessed behind 2 nd level below |
| | Maximum 2 storeys to the laneway boundary | 4 storey elevation to Kent Lane |
| | 70% of internal space of ground floor units to be within 250mm of ground level | A number of ground floor units along Fegan St are more than 250mm above ground level |
| Access | Kent Lane is to be used as the main access to the | Entry is proposed off Fegan St, exit to Kent |

| | | |
|--------------|---|---|
| | development | Lane |
| Landscape | Retain existing trees | No existing trees are to be retained |
| | 35% of site to be deep soil planting area | Minimal deep soil planting areas. |
| Design Guide | Design in 3 dimensions as a series of interconnected and interlocking forms | Strong horizontal form with similar, albeit stepped, floor plates |
| | Maximum building length of 20m | Building length is in excess of 66m |

4.1 Watkinson Apperley submission on DA

The Development Application was supported by a Statement of Environmental Effects (SEE) prepared by *Watkinson Apperley P/L*. Section 4.5 of the SEE provides details of the project response to the DCP, the Purdon Report and the Ruker Urban Design Strategies. The following provides a summary of the key issues raised in the SEE and Purdon's response to those issues.

The SEE suggests that the proposed development reflects the various design principles supported by both Ruker and Purdon. The key design elements summarised in the above table indicate that the proposal is inconsistent with the Purdon and Ruker reports.

The SEE suggests that a "policy void" exists. This is not correct, the provisions of DCP 99 apply together with specific additional controls as adopted by Council at its meeting on 1 February 2011. In addition the provisions of the exhibited draft DCP Amendment 1, while not part of an adopted DCP are a clear indication of Council's policy position. In the context of the history of urban design, investigation and analysis for this location should be considered as part of this application. Clearly there is no "policy void".

The SEE responds to the range of urban design principles from the Ruker Strategies, which are incorporated into the draft DCP 99 Amendment 1 by referring to various principles of SEPP 65 and the *Residential Flat Design Code* (RFDC). However, the basis of the RFDC is that good urban design responds to context and understanding local context is the key. The RFDC is applicable state-wide, as such, to achieve good urban design in the local context, an application should specifically consider the provisions of the local urban design guide (as outlined in the draft DCP). The proposed development does not incorporate the urban design principles of the draft DCP.

The SEE acknowledges that the Purdon Report identifies that car parking strongly influences development viability due to the cost of basement parking. We acknowledge that basement parking provides a better urban design outcome than surface parking. However, we considered that some surface parking accessed directly off Kent Lane, together with other basement parking, would provide a significant cost saving contributing positively to economic feasibility while not significantly adversely affecting urban design outcomes, particularly on the basis that Kent Lane would primarily be a 'service' lane and not an important area of public domain.

It is somewhat ironic that the DA and SEE acknowledge that basement parking has a serious impact on development feasibility, but the applicant has not indicated that

any design options other than full basement parking were explored as part of the design evolution leading to lodgement of the DA.

The SEE re-affirms the applicant's previous statements that there “*appears to no articulated version of Huskisson’s desired future character*”. This is addressed in Section 3 above, and we further submit that the draft DCP and associated studies provide an extensive articulation of the desired future character for Huskisson.

The SEE acknowledges that the project has not been designed as separate buildings. The draft DCP requires a maximum length of 20m for any one building, with a 3m separation to the next building. In addition each building should be articulated at least every 10m to a depth of 2m for a width of 3m. The SEE suggests that provision of an entry ‘void area’ plus the stepping back of the northern and southern ends of the building achieves the objective. We consider the proposed design is a significant departure from the desired design attributes. The building of 4 storeys has a continuous façade to Fegan Street of over 66m. While this façade is strongly articulated, it does not achieve the small scale building form required by the draft DCP. The ‘entry void’ does not provide any significant break in building form, particularly as this entry is an enclosed foyer, the building will ‘read’ as one single building along Fegan St.

4.2 General comments on DA

As noted above, Purdon Associates have not undertaken a thorough assessment of the Development Application against all statutory documents, but have focussed on matters raised in the Purdon report. However, during this assessment we observed some aspects of the design and summarise those below:

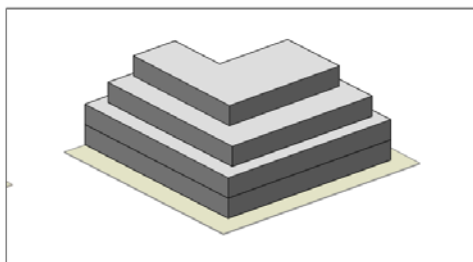
- The development proposes a ‘design frontage’ to Kent Lane. The draft DCP has a deliberate aim for Kent Lane to be primarily a service lane with waste facilities and parking areas facing the lane. The level of amenity for apartments within the subject development which exclusively overlook the lane may be adversely affected by future developments which may choose design outcomes that use Kent Lane as it was intended – i.e. service lane.
- The area provided for deep soil planting is effectively the ‘left-over’ spaces comprising the boundary setbacks. This does not assist in achieving a landscape character that is dominant over the building form.
- The one-way driveway is likely to lead to some users of spaces closest to the entry point finding it easier to exit the site via the entry driveway, rather than following the basement design path, which could lead to dangerous traffic conflicts.
- The slope on the entry driveway begins at the kerb line resulting in a change of grade for pedestrians using the verge. This could be present a trip hazard for pedestrians and is not a good design outcome.
- The central courtyard is located entirely over the basement car park, as such will comprise hard surface paving and small ‘garden boxes’ for soft landscaping with no scope of large scale, deep-rooted vegetation. The overlooking of this courtyard by all 46 units further reduces its amenity. As such it is likely that this space will be little more than a “light well” for units with habitable rooms facing the courtyard.
- The balconies on some of the upper floor units seem to be partly enclosed. These areas should be considered as floor area of the units rather than a terrace area forming an extension of the unit. As such, this would constitute an increase in GFA and, hence, FSR.

5 Summary & Conclusion

The assessment of Development Application RA11/1003 for 11-17 Fegan St Huskisson has highlighted that several aspects of the proposed development are significantly inconsistent with the provisions of the draft DCP and adopted development controls, including:

- The proposed Floor Space Ratio of 1.4:1 is considered excessive and does not achieve an acceptable urban design outcome consistent with the desired future character of Huskisson.
- The proposed development of 4 storeys also does not achieve the desired urban design outcome.
- The proposed 1.4:1 FSR, combined with 4 storey height results in an excessive bulk and scale and is contrary to one the Strategy's key principles of buildings being a small scale consistent with the intended character of the area.
- The increased density of the development will have a detrimental impact on the character of the area as the extent of building fronting the street is excessive and the design does not include separate buildings, resulting in a bulk and scale of building that is not compatible with the desired character of the precinct.
- The proposal would result in a substantial structure with a dominant horizontal form along Fegan Street, which is inconsistent with the desired future character of the area which aims to achieve extensive modelling by designing buildings as a series of three dimensional interconnected and interlocking forms to break up the scale of the building

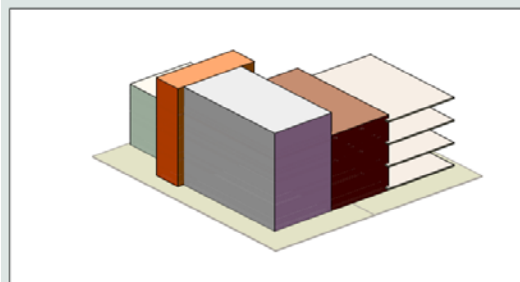
Undesirable building form



A building designed as a series of horizontal and identical plates (even if stepped) does not employ width and depth nor solid and void. This style of building generally uses its concrete structural frame as the buildings articulation which results in the appearance of a commercial style building without sufficient detailing resulting in a building that is unsympathetic to a residential area and a coastal town character.

Extract from Ruker Urban Design Strategy

Desirable building form



The concept of designing a building in three dimensions; as a series of interconnected and interlocking forms, is a key strategy in creating quality medium density coastal buildings and results in more human and domestic scale multi dwelling buildings.

- The existence of overhead power lines, limited deep soil planting area and removal of all existing trees will result in the built form dominating the landscape setting.
- The design has not incorporated the key aspects of the "Design Guide" and therefore does not achieve the objectives and principles of the DCP.

It is therefore the opinion of Purdon Associates that the proposed development should not be approved in its current form and that the applicant should be requested to re-design the building in accordance with the provisions of the DCP, as amended by Council's resolution of 1 February 2011 and subsequent amendments forming part of the re-advertised DCP.

Purdon Associates
4 November 2011