

WARRINGAH DEVELOPMENT ASSESSMENT PANEL MEETING

| | |
|------------|---|
| 3.4 | 701, 697, 699 & 703 Pittwater Road Dee Why – Demolition works, construction of a mixed use retail/commercial and residential development and associated draft Voluntary Planning Agreement |
|------------|---|

Panel Member**Mary-Lynne Taylor**, Chair (Environmental Law)**Patrick O’Carrigan**, Urban Design Expert**Lloyd Graham**, Community Representative**DA2013/1168****PROCEEDINGS IN BRIEF**

The Panel has reviewed the reasons for refusal in the Council assessment report received by the Panel before an amendment to the VPA was offered by the applicant, and believes those reasons for refusal are still relevant now, despite the fact that more public interest matters are now offered by the applicant and accepted by the Councillors.

For those reasons given below, the Panel does not favour the application in its present form and does not believe the concerns can be “cured” by conditions of consent.

The Panel believe the Dee Why Town Centre (DYTC) Master Plan is a non-statutory document that should simply guide future rezoning to the WLEP 2011. It should not be the basis for considering DA's which contravene development standards contained within statutory documents.

It is the Panel's contention that the proposed 15 storey building is a gross overdevelopment of the site from the point of view of both building height and bulk, leading to an excessive FSR.

The proposal should not rely on the Masterplan and an associated Voluntary Planning Agreement (VPA). The VPA should be a corollary to an approval, and not be the *basis* of an approval.

What is relevant on this question of height and bulk is the provisions of the WLEP 2011 that relate to variations to development standards. The proposal must satisfy the objectives of Clause 4.3- Height of Buildings, the underlying objectives of the particular zone, and the objectives of Clause 4.6- Exceptions to Development Standards under the WLEP 2011.

One of the objectives under Clause 4.3 is: “ *to ensure that buildings are compatible with the height and scale of surrounding and nearby development*”

“When considered solely against the objectives and requirements of WLEP 2011 which envisages that the buildings do not exceed the 24m height limit, the proposed 51m height of the development is considered to be excessive and unjustified.

With reference to Clause 4.6, one of the objectives is: “ *to provide an appropriate degree of flexibility in applying certain development standards to particular development*”

The original assessment report states that: *“Due to the excessive building height proposed by the development, the degree of flexibility in applying the Development Standard is considered to be inappropriate”*. The Assessment report also states: *“The variation to the Development Standard will not achieve a better outcome”*

Another issue the Panel has with this development is the overshadowing onto the east side of Pittwater Road, the loss of views to nearby residents and the problem of precedent.

The Panel believes the tower has not been comprehensively re-modelled or addressed in terms of slenderness and architectural merit. It is largely a simple extrusion of the previous 9 storey scheme. Previously, the scheme was 9 storeys above a 4 storey podium.

The height is too tall for the context particularly in terms of the views residents enjoy from the higher hinterland. To say that it is masked by the higher towers opposite is self-serving - that only applies from one view angle and the towers opposite do not physically exist.

The height also provides a localised problem of year round overshadowing for the rest of the “triangular” block. Ideally this block will have, in addition to the narrow service lane/shared throughway, some communal open space at some stage in its redevelopment. This urban design potential will be cruelled by a very tall tower to the north.

Finally, the building outcome, apart from what you see is the housing yield which is homogenous 114 out of 129 odd apartments are studio or 1 bed +S there are limited 2 beds and no 3 bedroom units. Not all of these residents will be skaters or cyclists, many will commute with cars, hence Fisher and other roads will be at capacity because of the left turn only. In the future, the left turn only out will only be exacerbated by other developments further south in the Triangular site.

Conclusions:

- A. There is already an approval for a 9 storey building on this site that exceeds the 24m height control and FSR control of 4.0:1 in WLEP 2011.
- B. The current proposal for a 15 storey building exceeds the planning controls for height by 112.5%. The number of residential units sought at 129 exceeds the original 74 units proposed by 74%.
- C. The DYTC Masterplan is an *indicative* guide only and should not be used as a basis for a development approval; particularly as it uses a VPA as justification to override a recommendation for refusal in the Report (Item 3.4) brought before WDAP on the 27 March 2014.
- D. If the applicant wishes to advance a proposal of this kind it should be done by way of a site specific rezoning.
- E. There are concerns relating to building height, building bulk, traffic, overshadowing, loss of views, lack of housing mix and the matter of precedent.
- F. There is strong community opposition to the proposal.
- G. In an effort to make it a “landmark” the podium was dropped to two. However the first level of the podium [its Pittwater Rd edge] is not actually activated, it is a screen for car parking.

- H. The tower being L-shaped is actually quite bulky especially when viewed from the northern approach;

In conclusion, the Panel believes the building is not appropriate for the site, and that 'tower' buildings should be positioned to the east of Pittwater Road only as already approved

RECOMMENDATION OF WARRINGAH DEVELOPMENT ASSESSMENT PANEL

That Development Application No. DA2013/1168 for demolition works and the construction of a mixed retail, commercial and residential development and use of premises as retail shops, a café and residential units and associated Voluntary Planning Agreement at Lot B, DP 381816, Lot 4, DP 417528, Lot 1, DP 300967 and Lot 1 in DP 364010 known as Nos. 697, 699, 701 and 703 Pittwater Road, Dee Why be refused for the following reasons:

1. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the provisions of *State Environmental Planning Policy No 65 – Design Quality for Residential Flat Development*. In particular, the following Design Principles:
 - (i) Principle 2 – Scale; and
 - (ii) Principle 4 – Density.

Additionally, the proposal is inconsistent with the following Rules of Thumb under the *Residential Flat Design Code*:

- (i) Open Space.
2. Pursuant to Section 79C(1)(a)(i) of the *Environmental Planning and Assessment Act 1979*, the development does not comply with the relevant provisions of the *Warringah Local Environmental Plan 2011*. In particular, the proposal does not satisfy the requirements of:
 - Clause 4.3 – Height of Buildings Development Standard
3. Pursuant to Section 79C(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979*, the proposed development is inconsistent with the relevant provisions of the *Warringah Development Control Plan 2011*. In particular, the proposal is inconsistent with the provisions of Part G – Special Area Controls (Area 7 – Pittwater Road), Requirement 9 – Build-to-Lines.
4. Pursuant to Section 79C(1)(e) of the *Environmental Planning and Assessment Act, 1979*, the proposed development is not in the public interest as the development is inconsistent with the height of development that the community can reasonably expect to be provided on this site under the provisions of the *Warringah Local Environmental Plan 2011*.

Voting 3/0