

PLN019-24 PLANNING PROPOSAL 544-566 AND 548-550 BOX ROAD JANNALI

Attachments: Appendix A (under separate cover), Appendix B (under separate cover) and Appendix C (under separate cover)

In accordance with section 375A of the Local Government Act 1993, this matter requires a planning decision as it involves the exercise of a function of Council under the Environmental Planning and Assessment Act 1979 relating to a development application, an environmental planning instrument, a development control plan or a development contribution plan under that Act but does not relate to an order under Division 2A of Part 6 of that Act.

EXECUTIVE SUMMARY

- A proponent led Planning Proposal for 544-546 and 548-550 Box Road, Jannali seeks to amend Sutherland Shire Local Environmental Plan 2015 (SSLEP2015), with respect to the following development standards:
 - a maximum floor space ratio (FSR) of 3.8:1 (currently 2:1), with a minimum 0.6:1 of the total FSR as retail/business use; and
 - a maximum building height of 30m (currently 20 metres).
- The visual prominence of the site exacerbates poor transitions to adjacent land and the surrounding low density area. The indicative proposal does not comply with the requirements of the Apartment Design Guide and the scale of development will impact neighbourhood amenity, privacy and overshadowing.
- Feasibility modelling indicates that the current controls will not facilitate redevelopment of the site. However, neither council nor the State government have identified Jannali as a town centre for further growth.
- A place plan is needed for Jannali, which provides for a more dense planning context, and facilitates a change of scale and character, to support proposals such as this.
- The site does not benefit from the proposed State reforms to facilitate housing, as proposed refinements indicate that these changes will only apply to residential zoned land.
- The Planning Proposal currently lacks strategic alignment and site-specific merit. Accordingly, the Planning Proposal is not supported.

REPORT RECOMMENDATION

THAT:

1. The report 'Planning Proposal 544-566 and 548-550 Box Road Jannali' be received and noted.
2. The Planning Proposal for 544-546 and 548-550 Box Road, Jannali is not supported for referral to the Department of Planning Housing and Infrastructure for Gateway Determination.

PURPOSE

This report advises Council of the Planning Proposal for 544-546 and 548-550 Box Road, Jannali. It is recommended that it not be referred to the Department of Planning Housing and Infrastructure (DPHI) for Gateway determination and subsequent exhibition, as the proposal does not demonstrate strategic merit.

BACKGROUND

The Planning Proposal for two lots at 544-546 and 548-550 Box Road, Jannali was lodged on 7 of December 2023, by 'The Trustee For Jannali No. 1 Trust'. Additional Information to enable the assessment of the proposal, as requested by Council, was provided by the applicant on 6 February 2024.

PROPOSAL

This Planning Proposal (RZN23/0001) seeks to amend the controls of the Sutherland Shire Local Environmental Plan 2015 for two lots at 544-546 and 548-550 Box Road, Jannali. The Planning Proposal seeks to redevelop the site as a high-density shop-top apartment complex with:

- a maximum floor space ratio (FSR) of 3.8:1 (currently 2:1), with a requirement that minimum 0.6:1 of the total FSR would be retail/business use (including amenities and facilities); and
- a maximum building height of 30m (currently 20 metres).

The applicant has provided an indicative concept plan for an eight to nine storey mixed-use development, with retail on the ground floors and 44 residential dwellings above. The development also includes three levels of basement parking for both residents and customers of the retail spaces.

In support of the application the proponent has lodged supporting documentation, including:

- Planning Proposal Report
- Planning Proposal Information
- Proposed Building Render
- Development Feasibility Study
- Economic Benefit Assessment
- Jannali Community Consultation Report
- Traffic and Parking Assessment
- Preliminary Site Investigation

Documents associated with this Planning Proposal are available on [Council's website](#).

DISCUSSION

The subject site, 544-546 and 548-550 Box Road, Jannali, is located on the southern side of Box Road and at the corner of Roberts Street, in the Jannali Town Centre. It is currently zoned E1 Local

Centre under Sutherland Shire Local Environmental Plan 2015 (SSLEP2015, and the proposed development is subsequently permissible.

The subject site at 544-546 and 548-550 Box Road, Jannali, described as Lot 2 in DP 209152 and Lot 2 in DP202711, is approximately 1184m² in size, and is currently zoned E1 Local Centre under the SSLEP2015.



Aerial Photo 544-550 Box Road – site identified in blue.

The site is quite prominent within the landscape, being the highest point in the Jannali town centre. It is also noted that the site borders low density R2 Residential to its east.

ZONING

The land is currently zoned as E1 Local Centre under Sutherland Shire Local Environmental Plan 2015 (SSLEP2015). Under SSLEP2015 the following development standards apply:

- maximum building height for the site – 20 metres
- maximum Floor Space Ratio - 2:1

Spatial mapping layers are available digitally on the [NSW Planning Portal](#):



Extract: SSLEP2015 Zoning 544-580 Box Road (identified in darker blue)

STRATEGIC MERIT

The Department of Planning Housing and Infrastructure (DPHI) [Local Environmental Plan Making Guidelines](#), issued under section 3.33(3) of the Act, requires the strategic merit of the proposal to be tested by addressing whether the proposal will give effect to State and local planning strategies, or respond to a recent change in planning circumstances. This is established through asking a series of question in relation to the proposal.

Council is required to consider if the proposal:

- Gives effect to the relevant district plan within the Greater Sydney Region; or
- Demonstrates consistency with the relevant Local Strategic Planning Statement (LSPS) or strategy that has been endorsed by the Department or required as part of a regional or district plan; or
- Responds to a change in circumstances that has not been recognised by the existing planning framework.

Whilst the planning proposal is consistent with the planning priorities of the Greater Sydney Region Plan and South District Plan in terms of transport and new housing, Jannali itself is only a local centre which has not been identified as a centre for growth in Council's LSPS.

Jannali is a small local centre that has many strategic advantages. Building stock is aged, with little redevelopment in recent years. This proposal could aid in the revitalisation of Jannali centre. While there is some merit in enabling greater housing in the centre, the scale proposed on this site is incompatible with the current and planned local character. This is further discussed below.

A full detail of the strategic and site-specific merit test is provided in the Sutherland Shire Local Planning Panel Report attached at Appendix A. Following is a brief analysis.

SITE SPECIFIC MERIT

The Local Environmental Plan Making Guidelines, issued under section 3.33(3) of the Act, requires the site-specific merit of the proposal to be tested, having regard to the following:

- a. *the natural environment (including known significant environmental values, resources or hazards);*
- b. *existing uses, approved uses, and likely future uses of land in the vicinity of the land to which the proposal relates; and*
- c. *services and infrastructure that are or will be available to meet the demand arising from the proposal and any proposed financial arrangements for infrastructure provision.*

Location/Context:

The site is located on highest point in the Jannali town centre. Council's adopted SSDCP2015 seeks to retain the appealing village atmosphere of Jannali. Due to the proposed height (30 metres) the proposal will have an unprecedented scale.

The visual prominence of the site makes suitable transitions to adjacent land and the surrounding low density area difficult. The adjacent R2 Low Density Residential zone to the east allows for single dwellings, dual occupancy and multi dwelling development at a maximum height of 8.5 metres and a FSR of 0.55:1. There will be no transition of scale to these small scale dwellings. The scale of development will impact neighbourhood amenity, privacy and overshadowing. Overshadowing would significantly impact the existing single dwelling residents in the R2 zone (see Planning Proposal).

A floor space ratio of 3.8:1 is a significant increase in density – almost twice as much as current controls. For comparison, the highest density permitted under SSLEP2015 is in the strategic centre of Sutherland, where there are individual sites that permit a FSR of 3.5:1 and 4:1. Miranda Centre, also a strategic centre, allows buildings with a FSR of 3.5:1 (currently). Jannali has not been identified as a centre for growth in Council's LSPS.

Recent development north of the centre includes 'Union Place' – comprised of residential flats and hotel at (FSR 2:1, height 23/24 metres), and to the west, across the railway line, in Mitchell Ave - residential flats (FSR 1.2: and height 16 metres). These developments are not located on ridgelines and the height is comparable to the height of large scale canopy trees in the locality. Hence the visual impacts of higher scale development in this location, as proposed, will be significant.

Indicative Development – Bulk and Scale:

The proposal seeks an increase to the maximum floor space ratio of 3.8:1 (currently 2:1), with a requirement that minimum 0.6:1 of the total FSR as retail/business use (including amenities and facilities). This results in a mixed use building of 30 metres (eight to nine storeys) "in the round", with three levels of basement parking (current height limit is 20 metres – approx. six storeys).

Accompanying the Planning Proposal are indicative architectural plans and render:



Planning Proposal Extract: *Proposed Building Render Box Road*

Information provided by the proponent indicates that the proposed built form appears to only partly comply with the Apartment Design Guide (ADG). The indicative design attempts to mitigate the visual bulk with a podium setback. It appears that the privacy, building separation, and communal open space requirements of the ADG have not been met. This is due to the site being relatively small (1184sq.m.) and the significant amount of floor space proposed within the proposed height 30 metres.

Consequently, the design is constrained – producing a squat building with little regard and relationship to adjoining sites. Non compliance with ADG indicates that there is too much floor space proposed. Buildings in centres with such higher FSRs generally require a “wall” building that would connect to a future adjacent building.

Environmental Impacts:

Site environmental constraints could include contamination and acid sulfate soils, as surrounding lots are affected. Two nearby sites are of concern, being a drycleaner to the west and service station to the east. Both uses have the potential for vapour intrusion from TCE contaminant and petroleum hydrocarbons. This could be addressed at the DA stage if the proposal was supported. The site is currently zoned for mixed use (commercial/residential) development, and no change of use is proposed.

Economic Feasibility:

The proponent justifies the proposed height and Floor Space Ratio as a result of development feasibility. The proponent's feasibility report indicates that the development could not be completed under the current SSLEP2015 controls - particularly the yield and revenue based upon a floor space ratio (FSR) of 2:1 and height limit of 20 metres. The report concludes the return on investment would

be a capital loss. Internal feasibility modelling by officers, using a tool provided by DPHI, indicates that the proposed height and FSR is just over the margin for profitability.

Whilst feasible, the proposal lacks a strategic planning context and will have immediate impacts in the adjoining area in terms of bulk and scale, visual intrusion, privacy and amenity. This lack of transition was also noted by the Sutherland Shire Design Review Panel commentary (Appendix C) – further discussed below.

Alignment with State Planning Policies

The Planning Proposal must also demonstrate consistency with applicable State Environmental Planning Policies (SEPP) and Ministerial Directions. This assessment has been carried out and the proposal is not inconsistent with any SEPP or Directions. The Planning Proposal does not have any impact on critical habitat or threatened species, populations or ecological communities, or their habitats.

A full discussion of the strategic and site-specific merit test is provided in the Sutherland Shire Local Planning Panel Report attached as Appendix A.

In brief, Jannali is a local centre which has not been identified as a centre for growth. While the proposal will provide additional housing, it does not provide housing to address a particular need – affordable etc. The site could also ultimately benefit from the State policy (Housing SEPP) which provides for a bonus Floor Space Ratio (FSR) of up to 30 per cent and a height bonus of up to 30 per cent where a proposal includes a minimum of 15 per cent of the gross floor area (GFA) as affordable housing. Accordingly the built form outcome could be greater.

Principles for assessing Planning Proposals

In February 2023 Council adopted principles for assessing Planning Proposals, [Planning Proposals | Sutherland Shire Council \(nsw.gov.au\)](https://www.sutherlandshire.nsw.gov.au/planning-proposals). These assist here, where the site is not in an identified or priority location for the proposed use and there has not been a significant catalyst for change. Accordingly, the Planning Proposal has been assessed against the following planning principles:

3.2 *The planning proposal must not increase risk to life or property in areas of known hazards.*

The proposal does not increase risk to life or property as the site is not affected by hazards.

3.3 *The planning proposal must demonstrate that adequate infrastructure is available or will be provided.*

The proposal demonstrates that infrastructure needs can be met with the existing services.

3.4 *The planning proposal must support sustainability and environmental aspirations.*

The proposal does not go beyond the minimum requirements to support sustainability.

3.5 *The planning proposal must support liveability aspirations.*

The proposal does not demonstrate exceptional design and lacks context with the local character of the Jannali community. The large bulk and scale do not comply with ADG requirements and the unprecedented height is not consistent with the streetscape and character of the locality, and therefore not appropriate for the site.

3.6 The planning proposal should contribute to the supply of housing to meet demonstrated needs not currently being met by the market, particularly providing housing for our ageing community.

The proposal does not provide affordable or subsidised age housing, nor housing for a particular sector of the housing market, eg supportive accommodation. It comprises predominantly of two bedrooms units. Council has been meeting State housing targets but will need to increase housing completions to meet new targets. There is sufficient existing capacity to meet targets.

3.7 The planning proposal must align with the targets in the Local Housing Strategy.

Council is yet to adopt a Housing Strategy. The proposal does not align with any predicted growth areas identified in the draft Housing Strategy or Local Strategic Planning Statement. Jannali is not a strategic centre and was identified to serve as local centre, retaining its village identity.

3.8 The planning proposal should support the local economy.

The proposal provides a similar amount of commercial floor space as currently provided. The proposal will renew older commercial floor space and may act as a catalyst for redevelopment in the centre.

3.9 The planning proposal must ensure the orderly development of land.

The proposal does not ensure the orderly development of land. The constrained site and high FSR translates to a squat building with poor relationships to adjoining sites and surrounding land. The significant increase in height results in overshadowing and poor transitional scale to the R2 development east of the site is not appropriate. The bulk does not comply with ADG standards, and the lack of building separation will greatly restrict the development of adjoining sites.

DESIGN REVIEW PANEL COMMENTS

The Planning Proposal and indicative built form was referred to the Sutherland Shire Design Review Panel in closed session on 7 March 2024. The report of the meeting is now attached at Appendix C.

While the Panel was generally supportive of increasing building height and floor space ratio for the Jannali Local Centre, it was considered that there were specific aspects of the planning proposal and the proposed design that lacked rigorous contextual analysis and warranted further consideration. The Panel noted that a mostly residential building of 3.8:1 would require a much taller building to provide dwellings with good residential amenity.

The Panel considered that the proposal was lacking as it did not address the whole E1 zone. The Panel considered that proposal did not indicate probable and workable future site amalgamation, basic

site access or circulation within those amalgamations, or establish that the local retail character is at least maintained, and not weakened, by the precedent that could be set by the proposal. The Panel considered that the site-specific merit of the requested additional floor space, and corner retail resolution, as demonstrated by the reference design, is not a good fit for the site. The Panel recommended that the requested height and floor space be reconsidered to provide for good residential amenity on site, especially in relation to potential future development on surrounding sites, not to neutralise their outcome potential, nor create undesirable amenity as per ADG requirements.

The Panel agreed that height proposed resulted in an abrupt change to the R2 zone opposite. It was agreed that town centres necessitated buildings that surpass tree canopy (eight storeys) if they were to offer housing in strategic locations. However greater study was required to address the gateway site, transitioning to the R2 zone opposite. The Panel considered the proposed changes to the FSR control are well in excess of a suitable quantum of floor space for the site and an eight storey building would be closer to 2.5:1. The Panel considered that a continuous wall building along Box Road may resolve the current proposal's ADG issues including:

- a. inadequate separation distances;
- b. compromised solar access;
- c. insufficient floor-to-floor heights;
- d. deficiencies in communal open space, and;
- e. Inability to provide lightwell access to the unit lobby areas.

Wall buildings would be a considerable change to the character of the Jannali centre. The Panel thought that reconsideration of the proposal could produce a finer and better calibrated response to the immediate context.

The Panel made a number of recommendations for Council to consider as LEP amendments (Appendix C). This included extending the Jannali E1 town centre to adjoining land, generally allowing additional height to accommodate rooftop communal open space and increasing height in centres to accommodate greater floor to floor heights.

SUTHERLAND SHIRE LOCAL PLANNING PANEL ADVICE

Legislation requires all Planning Proposals to be referred to the independent Local Planning Panel for advice prior to Council's consideration. Accordingly, the Planning Proposal was referred to the Sutherland Shire Local Planning Panel in closed session on 2 April 2024 – the full report and Minutes are attached at Appendix A and B.

The Panel agreed that the Planning Proposal had insufficient merit to warrant referral to the Minister for Planning and Public Space under Section 3.34 *Environmental Planning and Assessment Act 1979* (the Act) for Gateway Determination. The Panel suggested that the floor space ratio be reduced to

demonstrate that the built form can comply with the Apartment Design Guidelines, while creating an appropriate transition to the adjoining low density residential land.

The Panel concurred that as Jannali has not been identified by the LSPS or District Plan as a centre for growth, the proposal lacked merit. The bulk and scale as proposed, lacked transitional context, and would result in an unacceptable impact on the adjoining low-density land. The proposal failed to address its relationship to adjoining commercial and residential and as a result the proposal lacked site specific merit. The Panel also considered any increase in density should be the result of a holistic and strategic approach to the entire centre as part of a place plan.

REZONING REVIEW

The Department of Planning Housing and Infrastructure (DPHI) [Local Environmental Plan Making Guidelines](#), indicate that standard Planning Proposals should be considered by Council within 95 working days. However, a rezoning review may be applied for by the proponent following 90 calendar days (65 working days) – which enables such by 6 May 2024.

At the time this report was written, the proponent has lodged a rezoning review with DPHI. The rezoning review process allows a proponent to request that an independent planning panel evaluate the proposal and if it should progress to Gateway determination. This can only happen after the proposal has been lodged with a council and council has:

- notified the proponent in writing that it does not support the proposal.
- failed to indicate its support for the proposal within 90 or 115 calendar days (depending on the planning proposal category) of the proponent lodging it.
- failed to submit the proposal for gateway determination within 28 calendar days of indicating support.

Council has been requested to provide comments on the proposal as part of the review process. The regional planning panel will review the proposal and make a recommendation to the Minister as to whether it should be submitted for gateway determination. Council will continue to provide local planning advice.

RESOURCING STRATEGY IMPLICATIONS

The Planning Proposal is the responsibility of the Strategic Planning Unit utilising existing resources.

COMMUNITY ENGAGEMENT

Community engagement takes place in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulations 2021*. The Act requires that community engagement follows if the proposal was sent for Gateway Determination.

STRATEGIC ALIGNMENT

The proposal partially delivers on Council’s Community Strategic Plan - Strategy 6.1. Facilitate a diverse housing mix that provides choice and meets the needs of all community members. However, it does not delivery on Strategy 6.2. Ensure quality, well planned and balanced development supports the growth of our community.

Delivery Program (2022-2026) Principal Activities	Operational Plan (2024/25) Actions
6A Support enhanced housing diversity, accessibility, and affordability to meet the diverse needs of our community	
6B Plan for the future land use and development needs of our community	
6C Manage new and existing development within a robust and effective framework	

POLICY AND LEGISLATIVE REQUIREMENTS

The *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulations 2021* set the framework for the assessment of Planning Proposals. These steps will be strictly adhered to throughout this process.

CONCLUSION

Jannali is identified as a local centre in the South District Plan. However, there is little strategic direction for greater growth in the town centre. There is no current adopted place plan for Jannali that supports higher density development. Hence the site lacks strategic alignment.

Whilst the current planning controls supports a mixed-use development, the proposed height and FSR is out of character for its local context. Maintaining the scale and local character of Jannali requires greater consideration of the scale and built form of future development in Jannali. A place plan should be developed that would better support this proposal.

It should be noted that the current SSLEP2015 height and density controls are unlikely to produce economically feasible development. The proponent contends that the proposed density (3.8:1) is feasible. Testing by officers, using a model provided by DPHI, indicates that development of the site is feasible at a FSR of 3.3:1 if retail/commercial floor space is reduced by half to 0.3:1. Maintaining the proposed retail floor space (0.6:1) results in a feasible development at 3.6:1. Feasibility of development in the current economic climate is difficult as construction and funding costs are high, and commercial floor space (usually built on speculation) must be fully funded by the developer during the construction phase.

The State government draft planning reforms - “Explanation of Intended Effect: Changes to create low and mid-rise housing” seek to facilitate more housing within walking distance from transport hubs,

shops, and amenities. The draft revised reforms seek an FSR of 2.2:1 and height of 21/24 metres (six storeys) for R3 and R4 zones only, located within 400m/800 metres of the centres. The R2 zone located opposite does not benefit from the State reforms. It is expected that the site itself will not benefit from State reforms.

Given the current desired future character of the Jannali town centre, the proposal cannot be supported due its scale. Accordingly, the Planning Proposal is not supported in its current form.

RESPONSIBLE MANAGER

The manager responsible for the preparation of this Report is the Acting Manager Strategic Planning, Beth Morris.

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