



DATE OF DETERMINATION	Thursday, 19 May 2022
DATE OF PANEL DECISION	Thursday, 12 May 2022
DATE OF PANEL MEETING	Wednesday, 4 May 2022
PANEL MEMBERS	Chris Wilson (Chair), Renata Brooks, Susan Budd
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Nowra City admin building on 4 May 2022, opened at 12:30pm and closed at 1:32pm.

MATTER DETERMINED

2017STH009 – Shoalhaven – RA17/1000 – Lots 1 & 6 DP 1082382 Anson Street, St Georges Basin – Concept Development Application for a mixed-use development comprising residential flat buildings and commercial development. The DA sought approval for 13 buildings up to 13m in height providing for an estimated 88 x 2-bedroom apartments, 292 x 3-bedroom apartments, 2,233 square metres of commercial floor space and 783 parking spaces (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Development application

The Panel determined to refuse the development application pursuant to section 4.15 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel generally agrees with the findings of Council's assessment report and has determined to refuse the application consistent with Council's reasons, subject to some minor changes to these reasons. The reasons for refusal are as follows.

1. When considered against the critical matters that must be assessed for the subject concept development application (s4.22(5) of the EPA Act), the application failed to demonstrate that acceptable impacts and outcomes could be achieved in the following key areas:
 - a. Compliance with the respective environmental planning instruments applying to the site;
 - b. The visual compatibility of the development to surrounding development and neighbourhood character;
 - c. The impact of the development on surrounding properties and the public domain;
 - d. Social impacts of the development;
 - e. The streetscape and urban design issues relating to the building heights, footprints and separations, traffic, accessibility and safety; and
 - f. The shadow impacts of the development on the public domain and private properties.
2. Non-compliance with SEPP 65 in relation to the Design Quality Principles and Apartment Design Guide (s4.15(1)(a)(i) of the EPA Act). The Panel agreed that the Applicant had not demonstrated that future applications could comply with SEPP 65 specifically as follows:

- a. The development does not meet the design quality principles per section 28(2)(b) of SEPP 65 (Principle 1: Context and Neighbourhood Character, Principle 2: Built form and scale; Principle 3: Density; Principle 4: Sustainability; Principle 5: Landscape; Principle 6: Amenity, Principle 7: Safety, Principle 8: Housing Diversity and social interaction and Principle 9: Aesthetics); and
 - b. The development fails to satisfy the preconditions of clause 30(2)(a) and (b) of SEPP 65, in that the development does not demonstrate that adequate regard has been given to:
 - i. the design quality principles; and
 - ii. the objectives specified in the Apartment Design Guide for the relevant design criteria (3A-1 Site Analysis; 3B-1 and 3B-2 – Orientation; 3C-1 and 3C-2 Public Domain Interface, 3D-3 Communal and Public Open Space, 3E-1 Deep Soil Zones, 3F-1 Visual Privacy, 3G-1 and 3G-2 Pedestrian Access and Entries, 3H-1 Vehicle Access, 3J-4 Bicycle and Car Parking, 4A-1, 4A-2 and 4A-3 Solar and Daylight Access, 4B-1 and 4B-2 Natural Ventilation, 4C-1 and 4C-2 Ceiling Heights, 4E-1 Private Open Space and Balconies, 4D-1 and 4D-2 Apartment Size and Layout, 4H-1 Acoustic Privacy, 4K-1 and 4K-2 Apartment Mix, 4L-1 and 4L-2 Ground Floor Apartments and 4W-1 Waste Management).
3. The proposed concept development application proposes a development which will be unable to comply with the maximum building height standard under clause 4.3 of SLEP 2014.
 4. The proposed development does not meet the objectives of the SLEP 2014 B4 Mixed Use and R1 General Residential zones (s4.15(1)(a)(i) of the EPA Act).
 5. The proposed development is not consistent with the objectives of SLEP 2014 clause 7.20 Development in the Jervis Bay Region as it is considered the development will have a detrimental impact on the locality and will not contribute positively to the natural and cultural values of the Jervis Bay Region (s4.15(1)(a)(i) of the EPA Act).
 6. The proposed development is inconsistent with the Objectives, Performance Criteria and Acceptable Solutions as they relate to the following provisions of Chapter N23: St Georges Basin Village Centre Shoalhaven Development Control Plan 2014 (SDCP 2014) (s4.15(1)(a)(iii) of the EPA Act):
 - a. 5.1.1 Traffic, facilities, access, pedestrians, and car parking
 - b. 5.2 Civic Domain
 - c. 5.3.1 Design and siting
 - d. 5.3.2 Landscaping
 7. The development is likely to have adverse impacts on the built environment (s4.15(1)(b) of the EPA Act). The Panel determined that the:
 - a. proposed building envelopes do not provide sufficient certainty for the consideration and determination of future development applications.
 - b. proposal for a three-storey residential flat building development of this scale is inconsistent with the zoning and height controls applying to the site;
 - c. proposal is incompatible and conspicuously out of character with the St Georges Basin village and future desired character of the village and is considered an over development of the site; and
 - d. consequently, the proposal is likely to have an adverse impact on the social amenity and way of life of the local community.
 8. The site is not suitable for the development as proposed (s4.15(1)(c) of the EPA Act).
 9. Subject to the reasons outlined above, the development is not in the public interest (s4.15(1)(e) of the EPA Act).

CONDITIONS

Not applicable.

BRIEFING AND SITE INSPECTION

A site inspection was conducted by the Panel on 4th May 2022, accompanied by a Council Officer. The various issues previously identified in Council's assessment report were discussed.

Council also briefed the public meeting on 4th May 2022 which included the Panel. The briefing provided an overview of the proposal and key issues identified in Council's assessment report.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during the various public exhibition periods, and issues raised by those who addressed the Panel during the meeting held on 4th May 2022. The Panel notes that issues of concern included:

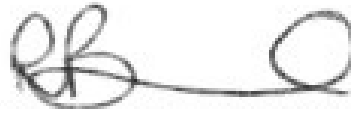
- Development is out of character with the Basin area. Natural state and humble character of the area is what has attracted residents and visitors, and the towering bulky structures proposed are incompatible with this.
- Housing type and proposal of 13 x 3- storey apartment buildings are not in character with surrounding areas (which is generally 1- and 2- storey single dwelling homes and small-scale commercial).
- Traffic impacts – safety, increased volume of cars and road congestion.
- Adverse visual impacts, particularly from the height, bulk and scale of the proposal.
- Height of buildings proposed are above 8.5 m height limit in LEP.
- Appearance and visual design of development is not in keeping with character of existing village, design is of low architectural quality.
- Unsuitable development that sets a precedent.
- Not a sensitive or well considered concept plan, especially in context of the wider area
- Adverse environmental impacts on the Basin and local flora and fauna, and construction impacts on the basin in terms of soil erosion and sediment and water flows. Impact on natural environment, especially due to sediment and erosion impacts during construction, noting this development seeks to excavate soil to construct underground basements, and it is a sloping site.
- Inadequate parking for residents and visitors.
- Adverse social impacts due to significant population increase in the area, with approximately a 20% increase in dwellings in the village from this development alone (and in addition to other smaller scale developments occurring in the area)
- Significant increase in population will also increase existing pressures on services in the village such as the availability of doctors, childcare, schools, public transport (only 4 buses per day), parks etc
- Lack of adequate utilities and facilities including water supply, sewage, and roads.
- Increase and changes in flow of stormwater that would adversely impact the Basin.
- Does not meet the requirements of SEPP 65 in that the proposed development does not respond to or enhance the quality and identity of the area.
- Does not meet the requirements of SEPP 71.
- Adverse impact on the visual amenity and scenic qualities of the area.
- Overshadowing on neighbouring properties and loss of privacy.
- Subject site is not identified in Shoalhaven Growth Management Strategy for new housing
- Concerns regarding bushfire evacuation for the 800+ additional residents in this development
- Not in keeping with Bay and Basin [Shoalhaven] Community Strategic Plan
- No good economic data supporting the viability of the development, and no market for this type of housing, with poor uptake of Stage A and B apartments as further evidence
- The lack of parking and storage is out of character with the typical lifestyle of residents and holiday makers, e.g., owning and storing boats, and other watercraft.
- Proposal offers insufficient and segmented communal open space, which will exacerbate pressure on existing open space.

The Panel considers that concerns raised by the community have been adequately addressed in the Council Assessment Report and that no new issues require assessment.


PANEL MEMBERS



Chris Wilson (Chair)



Renata Brooks



Susan Budd

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2017STH009 – Shoalhaven – RA17/1000
2	PROPOSED DEVELOPMENT	Concept Master Plan mixed use development being residential flat buildings and commercial development. Comprising 15 buildings up to 13m in height. The buildings estimated to provide 88 x 2-bedroom apartments, 292 x 3-bedroom apartments, 2,233 square metres of commercial floor space and 783 parking spaces.
3	STREET ADDRESS	Lots 1 & 6 DP 1082382 Anson Street, St Georges Basin
4	APPLICANT/OWNER	Eastern Grey Developments Pty Ltd / David DeBattista
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$20 million (DA lodged prior to 1 March 2018)
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Transport & Infrastructure) 2021 ○ State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building ○ Shoalhaven Local Environmental Plan 2014 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Shoalhaven Development Control Plan 2014 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil [or enter the clauses if relevant] • Coastal zone management plan: [Nil] • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 20 April 2022 • Section 4.15 Assessment Report: 20 April 2022 • Concept Masterplan Plans: 20 April 2022 • Written submissions during public exhibition: 333 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Sue Leppan on behalf of E & J Dickson, Philip Blackman on behalf of Basin Villages Forum, Denise Sheather, Maureen Webb, Judy Kowalski and Anna Parson ○ Council assessment officer – Cathy Bern • Total number of unique submissions received by way of objection: 333
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 9 March 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Renata Brooks, Susan Budd, ○ <u>Council assessment staff</u>: Rebecca Lockart • Site inspection: 4 May 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Chris Wilson (Chair), Renata Brooks, Susan Budd, ○ <u>Council assessment staff</u>: Cathy Bern

		<ul style="list-style-type: none"> ○ <u>Department representative:</u> Verity Rollason ● Final briefing to discuss council's recommendation: 4 May 2022 <ul style="list-style-type: none"> ○ <u>Panel members:</u> Chris Wilson (Chair), Renata Brooks, Susan Budd ○ <u>Council assessment staff:</u> Cathy Bern ○ <u>Department representative:</u> Mellissa Felipe and Verity Rollason
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not applicable