

Warringah Council

**Minutes of
Warringah Development
Assessment Panel Meeting
held on
Thursday
11 November 2010**

Time: 6.10pm
Location: Warringah Council Chambers,
725 Pittwater Road, Dee Why

2010/11

ATTENDANCE:

Panel Member

Kevin Hoffman	Law - Chairperson
Patrick O'Carrigan	Urban Design Expert
Susan Hobley	Environmental Expert
Lloyd Graham	Community Representative

Advisors

Peter Robinson, Manager Development Assessment, (SDS)

Lashta Haidari, Senior Development Assessments (SDS)

Minute Secretary

Cathie Arkell, Development Panel Coordinator (PDS)



Warringah Development Assessment Panel

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1 APOLOGIES

Nil

2 DECLARATION OF PECUNIARY INTEREST

Nil

3 REPORTS OF WDAP

Nil

4 REPORTS OF WDAP – CATEGORY 3 ITEMS

4.1	638 Pittwater Road, Brookvale – Construction of a Mixed Use (Commercial/Retail and Residential) Development
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DA2010/1285

Application Details

Demolition works and construction of a mixed use (commercial/retail and residential) development.

Site Description

Lot 1, DP 1001963, No. 638 Pittwater Road, Brookvale.

Independent Public Hearing

This report is of an independent public hearing that has been convened pursuant to cl 15 of WLEP because this application is for Category 3 development. The application was advertised as such and there were two (2) objections.

The Chairperson informed the hearing that applications for Category 3 development entail additional requirements. In particular, the Panel can only recommend that consent be granted if it is satisfied that the proposed development is consistent with the desired future character of the locality as described in the F1 Brookvale Centre and F3 Brookvale Industrial Locality Statement [WLEP2000 cl 12(3)(b)]. Further, the Panel must consider the Statement of Environmental Effects, prepared by the applicant, that addresses the items listed in Schedule 15 [WLEP2000 cl 15(1)].

Desired Future Character

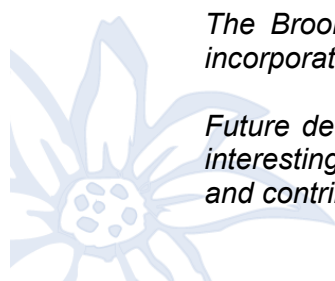
For this application being a Category 3 item to be satisfactory, the application has to be consistent with the Desired Future Character of the F1 Brookvale Centre and F3 Brookvale Industrial Locality.

The subject site straddles two localities. The western portion of the site is located within the F1 Brookvale Centre Locality as identified under WLEP 2000 pursuant to the provisions of WLEP 2000 and has a different locality statement to the remainder of the site.

The Desired Future Character Statement for F1 Brookvale Centre locality is as follows:

The Brookvale Centre locality will be developed as a mixed retail and business area incorporating low-rise shop-top housing.

Future development will help create a pedestrian environment which is safe, active and interesting. Future development will incorporate street level retailing and business uses and contributes to creating cohesive and attractive streetscapes.



The remaining portion of the site (i.e. the eastern portion of the site is located within the F3 Brookvale Industrial Locality. The Desired Future Character Statement for this locality is as follows:

The Brookvale Industrial locality will remain an industrial and employment centre incorporating industries, warehouses and ancillary service uses.

New development or significant redevelopment will be designed to incorporate landscaping to soften the visual impact of industrial buildings and their associated parking and other paved areas as viewed from the street.

At the interface of the locality with adjoining and adjacent residential areas, buildings will be sited and designed and the use of land managed to minimise interference with the amenity of such residential areas.

Allotments are to be consolidated where necessary to ensure the development of one allotment will not render an adjoining allotment unsuitable for development.

Site Visit

An inspection of the site was undertaken by the Panel and staff members prior to the Public Hearing. A copy of all the objection letters was provided to the Panel who considered the objections on the site visit.

Proceedings in Brief

The Panel had regard to the reports and documents provided and inspected the site during the afternoon. The Panel heard from the applicant's representatives. There were no objectors present at the public hearing although there had been objections lodged by the State Transit Authority of NSW mainly in regard to noise from the major Bus Depot opposite the site in Orchard Road and a cautionary objection from the NSW Office of Water in regard to procedures necessary for ground water dewatering of the site during construction and excavation.

In considering the application the major concerns were the Draft Local Environmental Plan which up until now has been considered imminent and certain as advice from the Department of Planning had indicated that it was likely to be gazetted before the end of 2010. The applicant produced a letter from the Minister for Planning, indicating that the Minister would consider matters in a submission raised by the applicant, including the possibility of deferring the land from the plan.

Bearing in mind, that this Panel's decision, will be in a form of a recommendation to the Joint Regional Planning Panel at its meeting in the near future and the Panel will have the letter from the Minister before it; this Panel believes it must consider the current application relevant to the current statutes and the Draft Local Environmental Plan that has been considered imminent and certain. We have no indication that the Minister or his staff might, after considering the submission by the applicant, make a change to the current terms of the Draft Local Environmental Plan.

The particular matters that the Panel considered was the assessment of plans as they currently stand, particularly under State Environmental Planning Policy No 65 and the reasons that the reports give for the poor amenity that would be produced for any residents of this development should it be built as proposed.

Indeed the applicant came to the Panel Hearing saying that it could amend the plans to delete a northern set of 8 units to create an open space area and to improve solar access and ventilation and improve the outlook of units. It might be said that in order to have most of the living rooms of the proposed units facing northwards it was necessary for them to be looking internal to the site and directly at the northern neighbour's property. Currently there is only a car park and manoeuvring area against this boundary but there is the potential under the controls for an eleven metres high blank wall to be erected within 5.5metres of the living rooms. This would mean that the amenity, particularly of the first floor units, would be poor for both ventilation and solar access during many times of the year. Whilst removal of the 8 units might improve the amenity of the

development it was not an amendment that this Panel could consider and we proceeded to assess the matter before us in the submitted plans.

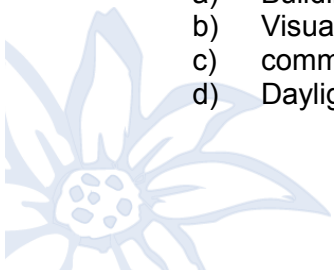
Having come to this conclusion and having read the recommendation in the report the Panel has agreed that creating a pocket of low amenity residential development as Shop Top Housing in this location where it is relatively isolated within existing industrial uses and proposed industrial uses in the Draft Local Environmental Plan, it could only create poor amenity for any potential future residents of the development if it was built. And it would promote reasons for conflict between those residents and the surrounding industrial uses.

Therefore the recommendation of the Warringah Development Assessment Panel, to the Joint Regional Planning Panel as the consent authority, is to refuse the application. The Panel unanimously adopts the reasons for refusal No.1-10 in the recommendation of the assessment report to the Panel.

RECOMMENDATION OF WARRINGAH DEVELOPMENT ASSESSMENT PANEL (CATEGORY 3 ITEM)

That the Joint Regional Planning Panel, as the consent authority, refuse Development Application No. DA2010/1285 for demolition works and the construction of a mixed use development at Lot 1 DP 1001963 - 638 Pittwater Road, Brookvale for the following reasons:

1. Pursuant to Section 79C (1) (a) (ii) of the Environmental Planning and Assessment Act, 1979, the proposed development is inconsistent with the objectives of B5 Business Development and IN1 - General Industrial zones under the provisions of the Draft Warringah Local Environmental Plan 2009 in that the subject site is unsuitable for residential development.
2. Pursuant to Section 79C (1) (a) (ii) of the Environmental Planning and Assessment Act, 1979, the proposed development does not comply with the Height of Buildings standard and is inconsistent with the objectives of the Height of Buildings standard under the provisions of the Draft Warringah Local Environmental Plan 2009.
3. Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979 the proposed development is inconsistent with the following Design Quality Principles in Clause 15 of State Environmental Planning Policy No.65;
 - a) Principle No. 1 Context
 - b) Principle No. 2 Scale
 - c) Principle No. 3 Built Form
 - d) Principle No. 4 Density
 - e) Principle No. 5 Resources, energy & water efficiency
 - f) Principle No. 6 Landscape
 - g) Principle No.7 Amenity
 - h) Principle No.10 Aesthetics
4. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development and the Residential Flat Design Code with respect to the following:
 - a) Building separation;
 - b) Visual and acoustic privacy between proposed apartments;
 - c) communal open space;
 - d) Daylight access to living rooms and private open spaces.



5. Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Warringah Local Environmental Plan 2000 in that the development is inconsistent with the Desired Future Character of the F1 Brookvale Centre Locality as the proposed development does not provide low rise shop top housing.
6. Pursuant to Section 79C (1) (a) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the provisions of Warringah Local Environmental Plan 2000 in that the development is inconsistent with the Desired Future Character of the F3 Brookvale Industrial Locality as the proposed residential use is inconsistent within an industrial locality.
7. Pursuant to Section 79C(1)(a) Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the building Height and Building Appearance built form control for the F1 Brookvale Centre locality in Warringah Local Environmental Plan 2000.
8. Pursuant to Section 79C(1)(a) Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the Building Height built form control for the F3 Brookvale industrial locality in Warringah Local Environmental Plan 2000.
9. Pursuant to Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979, the proposed development is inconsistent with the following General Principles of Development Control of Warringah Local Environmental Plan 2000.
 - a) Clause 43 – Noise;
 - b) Clauses 48 and 49 – Contaminated Land;
 - c) Clause 65 – Privacy;
 - d) Clause 66 – Building Bulk;
 - e) Clause 72 – Traffic Access and Safety
 - f) Clause 76 – Management of stormwater
10. Pursuant to Section 79C (1) (c) of the Environmental Planning and Assessment Act 1979 the site is not considered suitable for the proposed development as insufficient information has been submitted to demonstrate that the land will be suitable in its current state (or will be suitable after remediation) for the purpose for which the development is proposed to be carried out.

Voting 4/0

The Independent Public Hearing concluded at 7.00pm

Meeting Concluded 10.30pm

Kevin Hoffman
Chairperson

