



## **Report of Meeting**

### **Independent Hearing and Assessment Panel**

**Held on Wednesday, 19 April 2017  
commencing at 6:00pm  
in the Council Chambers,  
Level 2, Administration Building,  
4-20 Eton Street, Sutherland**

PRESENT: Charles Hill (Chairperson/Expertise in Planning), Erica Marshall-McClelland (Expertise in Traffic & Transport, Planner & Registered Architect), Larissa Ozog (Expertise in Town Planning) and Craig McCallum (Community Representative with Expertise in Traffic).

Staff in attendance was the Acting Manager Major Development Assessment (Carine Elias).

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**Disclosures of Interest**

**File Number: 2016/260430**

Charles Hill indicated that he was known to one of the Consultants acting on behalf of the application DA16/0641 - Wandella Road, Cronulla, but he indicated that he had no discussions nor involvement with the project in which the Consultant was now involved.

<b>IHAP013-17</b>	<b>Proposal:</b>	<b>Alterations and Additions to an Existing ALDI Supermarket and Carpark, Construction and Use of 5 Storey Residential Flat Building Containing 57 Residential Apartments Above the Existing Carpark to Create a Mixed Use Development and Stratum Subdivision of 2 into 3 – Wandella Road, Miranda</b>
	<b>Property:</b>	<b>Lots 1 &amp; 2 DP 1153094, (Nos. 14 &amp; 16) Wandella Road, Miranda</b>
	<b>Applicant:</b>	<b>Miranda Central Pty Ltd</b>
	<b>File Number:</b>	<b>DA16/0641</b>

**Ms Long and Mr Linden on behalf of the Objectors, and Messrs Quartermain, Innes, Woods and Mss Huy and Castellanos, on behalf of the Applicant, addressed the Panel regarding this matter.**

**IHAP RECOMMENDATION:**

THAT:

1. Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to Clause 4.3 Building Height satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the Building Height development standard be varied to 26.2m (4.8%), in respect to this application.

## IHAP013-17 Cont'd

2. Development Application No. 16/0641 for alterations and additions to an existing ALDI supermarket and carpark, construction and use of 5 storey residential flat building containing 57 residential apartments above the existing carpark to create a mixed use development and stratum subdivision of two lots into three at Lots 1 & 2 DP 1153094 (Nos. 14 & 16) Wandella Road, Miranda, be approved by way of deferred commencement consent subject to the conditions contained in Appendix "A" of the report with the following amendments:
- a) Deletion of Deferred Commencement Condition 1(a)
  - b) Deletion of Deferred Commencement Condition 1(b)
  - c) Amend Condition 18A (xi) by adding the following words after the word mirrors:  
*"or an automated system or both."*
  - d) Amend Condition 41A (iv) by adding the following words after the word Level 2:  
*"through the reallocation of spaces from the existing designated RSL spaces"*
  - e) Addition of the following new condition:  
*"A traffic assessment is to be carried out to ensure that vehicles are able to safely ingress and egress the site. The focus of the report is to consider the design of the existing ramps, in an attempt to minimise any potential traffic conflicts and adopt mitigation measures recommended by that report."*
  - f) Addition of the following new condition:  
*"The provision of privacy screens on the balconies on the sixth floor of the southern elevation of the proposed building are to be included to offer a greater degree of privacy for the existing units at No. 621 Kingsway, Miranda."*

**PANEL COMMENTARY:***Site Visit*

The Panel attended the subject site at Wandella Road, Miranda and the neighbouring the property at Unit 21/ 621 Kingsway, Miranda.

*Presentations to Panel at the Public Meeting*

The main issues raised in submissions related to road safety, view loss, traffic and parking, garbage collection, overshadowing, privacy, and building height and separation.

On behalf of the objectors, Ms Long and Mr Linden expressed concerns mainly in respect of the increased potential for overlooking from the new apartments.

The applicant's main concerns with the Council Officers report related to a number of proposed conditions relating to further increasing the setback of the building to the north, the need for the development to be cross ventilated in accordance with the minimum requirements of the ADG (60%), the addition of 22 car spaces, and the provision of storage in the basement area.

IHAP013-17 Cont'd

*Consideration of Issues*

The Panel was satisfied that the assessment report prepared by the Council officers had adequately addressed all the issues raised by the objectors in their submissions. The Panel felt that some additional screening along the southern elevation at the 6<sup>th</sup> level could be incorporated to satisfy the residents' concerns in the existing RFB at No.621 Kingsway Avenue, Miranda. This would improve privacy to this development.

However the Panel was in disagreement with the Council Officers' in relation to increased separation distances between the buildings on the basis that the building is proposed to be setback 7.5m from the northern boundary and has been designed in such a manner to minimise any potential for overlooking and loss of solar access to the neighbouring properties.

Providing a greater setback will adversely affect the internal amenity of the existing apartments (as proposed) and would substantially compromise the overall design and form of the development. A substantial redesign would need to occur. Considering that the proposal has been designed to substantially minimise any amenity impacts to the north, and the development has been skilfully designed in attempt to improve the visual amenity and outlook for those apartments. The unit block to the north currently looks back onto the service areas of the carpark and access stairs which is a poor visual outcome. The proposed development attempts to improve this situation.

The Panel was also satisfied that the applicant was capable of providing cross ventilation to approximate 79% of the units and therefore it met the requirements of 60% as required by the ADG controls. The applicant's expert consultant in Wind Engineering provided sufficient evidence to satisfy the panel that the development satisfied the minimum cross ventilation requirements of the ADG as such the panel agreed to remove Condition No. 1(b) be deleted.

The Panel however did not agree with the applicant' to delete Condition 3A (xi) in relation to the provision of additional storage in the Level 2 and 3 carparks.

The Panel also felt that privacy to the building at 621 Kingsway could be improved by the provision of privacy screenings on the balconies of the sixth floor on the southern elevation of the proposed building.

The Panel also believe that a traffic assessment should be carried out to consider and suggest additional measures to ensure that vehicles could ingress and egress the site safely particularly in relation to the design of the existing ramps which are tight and relatively narrow and mitigation measures should be implemented to minimise conflicts.

The Panel also proposed an amendment to Condition 41A (iv) to clarify that an additional 22 car spaces were not required, but a reallocation of existing RSL spaces was proposed.

IHAP013-17 Cont'd

*Reasons for Variation from Council Officer's Report*

The conditions in relation to separation distance, and increased cross ventilation, were deleted on the basis that the Panel were of the view that an increase in the separation distance would not achieve any significant change in amenity, and that there was no adverse impacts in relation to solar access, and privacy, the building having been designed in such a manner addressing these concerns.

In relation to cross ventilation the applicant had addressed this issue, and the Panel were satisfied that the applicable standard could be achieved.

A traffic management assessment report was also recommended to ensure that the design as proposed, particularly in relation to the existing ramp access within the carpark, was capable of facilitating appropriate safe ingress and egress within the carpark, conflicts were minimised and the issue of access in the car park was improved as a consequence of a greater number of cars servicing and accessing the car park.

Privacy screens were also recommended in response to the concerns raised by the objector at the Panel meeting.

**VOTES: 4:0**

**ASSESSMENT OFFICERS RECOMMENDATION:**

THAT:

1. Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to Clause 4.3 Building Height satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the Building Height development standard be varied to 26.2m (4.8%), in respect to this application.
2. Development Application No. 16/0641 for alterations and additions to an existing ALDI supermarket and carpark, construction and use of 5 storey residential flat building containing 57 residential apartments above the existing carpark to create a mixed use development and stratum subdivision of two lots into three at Lots 1 & 2 DP 1153094 (Nos. 14 & 16) Wandella Road, Miranda, be approved by way of deferred commencement consent subject to the conditions contained in Appendix "A" of this report.

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<b>IHAP014-17</b>	<b>Proposal:</b>	<b>Demolition of Existing Shops and Dwelling and Construction of a Mixed Use Development Containing 5 Commercial and 19 Residential Units - Princes Highway, Sylvania</b>
	<b>Property:</b>	<b>Lot 11 DP 650961, Lot 12 DP 658248, Lot 9 DP 655700, Lot 1 DP 726419, (Nos. 222-228) Princes Highway, Sylvania</b>
	<b>Applicant:</b>	<b>Nelson Ferreira</b>
	<b>File Number:</b>	<b>DA16/0377</b>

**Ms Kyriotis; Messrs Mansour and Turner and a written submission in lieu of an apology from Mr Lawrence on behalf of the Objectors, and Mr Couvaras and Ms Perry, on behalf of the Applicant, addressed the Panel regarding this matter.**

**IHAP RECOMMENDATION:**

THAT:

1. Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to height satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the *Height of Buildings* development standard be varied to 14 metres, in respect to this application.
2. Pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act, 1979, Development Application No. 16/0377 for demolition of existing shops and dwelling and construction of a mixed use development containing 5 commercial and 19 residential units at Lot 11 DP 650961, Lot 12 DP 658248, Lot 9 DP 655700, Lot 1 DP 726419 (Nos. 222 - 228) Princes Highway, Sylvania, is determined by the granting of development consent subject to the conditions contained in Appendix "A" of the report with the following amendments:
  - a) Condition 4A(ii) to be deleted and amended as follows:

*"Ground Level car parking Space 03 shall be deleted, and replaced with a 1.5m wide pedestrian walkway and new opening (adjacent to the stairs providing access to Townhouse No. 3) that will provide direct access from these two spaces through to the area of communal open space. Car parking spaces 04 and 05 shall be redesigned to be two larger car parking spaces."*
  - b) Condition 4A(iii) be amended as follows:

*"Signage shall be erected on the internal wall above spaces G01 and G02 to ensure that persons parking in those spaces, park rear to the wall, to ensure that vehicles exit in a forward direction."*
  - c) Addition of the following condition at 18A (iv):

*"Longitudinal Sections be provided along the car park ramp and gradients to comply with AS2890.1-2004."*

IHAP014-17 Cont'd

- d) Condition 35C to be amended by deletion of the words *Construction Certificate*, and replaced with the words *“Occupation Certificate”*.
- e) Addition of the following new condition:  
*“Preparation of a Construction Traffic Management Report and Construction Traffic Management Plan which is to be prepared by a suitably qualified person who holds RMS Accreditation-Prepare Work Zone Traffic Management Plan. The report is to consider the potential impacts of construction traffic and the parking of workers cars, the management of pedestrians across the footpath along Princess Highway and demonstrate the vehicle routes for heavy vehicles to and from the site during construction avoiding school zone times. The Plan needs to be comprehensive and ensure that there are suitable measures and methods that can be adopted to ensure that traffic from construction vehicles and parking is managed appropriately and reduces any potentially adverse impacts and conflicts to the residents along Sylvan Street.”*
- f) Addition of the following new condition:  
*“The balcony areas to the main bedroom of Units 3 and 4 be indented further to reduce the main bedroom size by 500mm in order to achieve a compliant window opening or to match the balconies above.”*

**PANEL COMMENTARY:***Site Visit*

The Panel attended the subject site at 222 - 228 Princes Highway, Sylvania

*Presentations to Panel at the Public Meeting*

On behalf of the objectors, Ms Kyriotis; Messrs Mansour and Turner, discussed the main issues related to privacy, impact upon outlook, access, parking and traffic, over development, bulk scale and height, overshadowing, landscaping, height of the building and setback separation and permissibility.

The Applicants in a written submission, and as outlined in their presentation, accepted the design conditions 2, 4A I, and questioned conditions 4a.

*Consideration of Issues*

The Panel was satisfied that the Council's assessment report had addressed all the issues that have been raised. In respect to permissibility, despite the planning report referring to residential apartments which could assume the proposal is an RFB and therefore prohibited in the zone, the Panel are satisfied that the development is classified as “shop top housing” and the townhouses at the rear classified as “multi-dwelling housing” which are both permissible uses in the zone.

IHAP014-17 Cont'd

In respect to height, the Panel are satisfied that the site presents a number of constraints, the main being the large dedication of land as a right of access at the rear. As the floor space complies with Council's controls and given the large rear dedication, the most suitable location of the floor space is at the front of the site facing Princes Highway. The additional level is setback some distance from the lower levels and is also setback some distance from the rear. Additional height to a main arterial road is considered the appropriate placement for this floor space.

Concerns were however raised by the local residents in particular about construction traffic around Princess Highway and Sylvan Street.

The Panel were of the view that one way to address this issue is to request a Construction Traffic Management Report and Construction Traffic Management Plan which is to be prepared by a suitably qualified person who holds RMS Accreditation-Prepare Work Zone Traffic Management Plan. The report is to consider and suggest a number of measures that will reduce any potential conflicts and control the movement of traffic around the site. In particular, construction traffic and the parking of workers cars, management of pedestrians across the footpath along Princess Highway and the report should demonstrate and outline the vehicle routes for heavy vehicles to and from the site during construction avoiding school zone times. This has not been covered in the conditions but should be included.

Another issue raised at the meeting concerned the small bedroom window opening sizes to Unit 3 and Unit 4. The balcony to the main bedroom could be indented further to reduce the bedroom size by 500mm in order to achieve a compliant window opening or to match the balconies above.

The Panel also considered the need for Longitudinal Sections should be provided along the car park ramp and gradients to ensure compliance with AS2890.1-2004 to be included as part of condition 18.

*Reasons for Variation from Council Officer's Recommendation*

The applicant had made a late submission seeking support for a number of minor changes. The Panel noted those in relation to Condition 4.A.i. and 4.A.iv related to changes in the design and which were in agreement with Council's assessment.

In relation to Condition 4.A.ii. - the applicants noted that any changes to the car parking proposed in the planners report would require the building to be raised 200 mm. The Panel disagreed with this and has proposed that car parking space 03 be deleted and that the other two remaining car parks 04 and 05 be expanded to make two car spaces removing the necessity to increase the building height and to provide a pedestrian access next to the original parking space 03 to the community public open space.

## IHAP014-17 Cont'd

The Panel believe it will not necessitate the raising of the building 200 mm as suggested by the applicant. The panel felt that the provision of disabled spaces along this part of the site at the rear is not convenient and ideal. These spaces should be provided in the basement directly adjacent to the lift. As such it was not considered the best solution to provide an additional disabled space in lieu of spaces 03, 04 and 05.

In relation to Condition 4.A.iii -the Panel agree that the site should be amended to ensure that cars parked rear to the wall to enable front facing egress from the site.

The applicant also questioned Condition 3 which required RMS approval and Condition 12 which required Council approval for public and associated roadworks. It was explained to the Panel as a matter of process, the detailed CC plans for these works will be forwarded to the RMS for their approval and subject to their approval, Council's conditions in relation to this matter as indicated in Condition 12 will then be imposed. This is apparently standard practice.

In replacement of Condition 35, the applicant indicated that the requirement should refer to the occupation certificate rather than the construction certificate and the Panel has agreed to this matter.

One matter that the panel wanted to raise prior to the determination of the application was the legality of the right of access at the rear. The Panel had insufficient information in relation to this matter and therefore couldn't confirm its status. The proposal has been designed to rely on the provision of a new rear accessway that runs the length of the site, some 5.8-6m in width. The intention is that in the future a laneway at the rear of most of these properties fronting Princes Highway is created and will provide secondary access for service vehicles for loading/unloading etc. The intention and purpose of this is reasonable as it will remove these activities from the primary road frontage (Princes Highway). The Panel didn't understand why other properties had not activated this accessway even if they weren't redeveloped. Many properties have fenced off all their rear yard area. The panel believe that if part of the rear of these properties is designated "right of carriageway" or "right of access" and this is acknowledged on their land titles this space needs to be made available for this purpose and cannot become privatised. It is suggested that prior to determination Council evaluates the legality of the situation and encourage activation of this space so that this development will initiate a formal accessway that can link onto the rear area of adjoining properties especially the rear of No.220 Princes Highway.

**VOTES: 4:0**

IHAP014-17 Cont'd

**ASSESSMENT OFFICERS RECOMMENDATION:**

THAT:

1. Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to height satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the *Height of Buildings* development standard be varied to 14 metres, in respect to this application.
2. Pursuant to the provisions of Section 80 of the Environmental Planning and Assessment Act, 1979, Development Application No. 16/0377 for demolition of existing shops and dwelling and construction of a mixed use development containing 5 commercial and 19 residential units at Lot 11 DP 650961, Lot 12 DP 658248, Lot 9 DP 655700, Lot 1 DP 726419 (Nos. 222 - 228) Princes Highway, Sylvania, is determined by the granting of development consent subject to the conditions contained in Appendix "A" of this report.

The Meeting closed at 8:30 pm.