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# Independent Hearing and Assessment Panel Meeting

**Date: 24 October 2017**

**6:00 pm**

**Council Chambers**

**Level 2, Administration Building**

**4-20 Eton Street, Sutherland**

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**BUSINESS PAPERS**

**SUTHERLANDSHIRE**

**ORDER OR BUSINESS**

- 1. DISCLOSURES OF INTEREST**
- 2. REPORTS FROM OFFICERS**

PRESENT: Grant Christmas (Chairperson/Expertise in Law), Scott Lee (Expertise in the Town Planning), Larissa Ozog (Expertise in Town Planning) and Russell Smith (Community Representative with Expertise in Marketing & Business Management).

Staff in attendance was the Manager Major Development Assessment (Mark Adamson).

\*\*\* **Disclosures of Interest**  
**File Number: 2016/260430**

There were no disclosures of interest declared.

**IHAP004-18**      **Proposal:**            **Demolition of existing structures and construction of a residential flat building containing 7 residential units**  
**Property:**  
**Applicant:**            **Vic Lake Architects**  
**File Number:**        **DA16/0314**

**Mr Lake, on behalf of the Applicant, addressed the Panel regarding this matter.**

***For Staff Report refer to IHAP004-18***

**PANEL COMMENTARY:**

*Site Visit*

1. The Panel inspected the subject site.
2. The Panel noted that the locality comprised predominantly residential flat buildings of between two and five storeys. There was a mix of old, renewed and new flat buildings.
3. The Panel noted the corner site and that it was oriented east west with the southern boundary to a street.
4. The Panel saw the two on-street car spaces that were proposed to be removed (in Elouera Road) and the three on-street spaces that would be re-instated (in Marlo Road).
5. There were no objectors' properties to view

*Presentations to Panel at the Public Meeting*

There were no addresses from objectors as there were no objections to the application.

Applicant's representative (Mr Lake – architect) addressed the Panel.

1. Mr Lake concurred with the recommendation in the report for approval.
2. Mr Lake requested that condition 2A(i) be deleted as the subject enclosure provided important weather protection for people entering the building.
3. Mr Lake requested that condition 19A (ii) be deleted as enclosure of the car spaces added to security.

4. Mr Lake considered that the site was close to public transport and this justified the shortfall in on-site parking. Further, Mr Lake considered there was no further scope for additional basement parking without decreasing the deep soil landscaping proposed. Mr Lake stated that it was his opinion that the market would determine whether the amount of parking was appropriate.
5. Mr Lake considered that the landscaped podium planters would be able to be easily maintained.
6. Mr Lake was amenable to conditions requiring some refinement to the proposed materials and finishes for the development.

#### *Consideration of Issues*

1. The Panel initially raised concerns regarding the building's non-compliance with the two key development standards of the height and floor space ratio. However, the Panel noted that the proposal was lodged as a generally compliant scheme and the variations became a direct result of having to raise the building to address flooding, this was considered a unique situation. The Panel considers that the exceedance in the controls is acceptable given this is a corner site which can handle some additional height and scale and the non-compliance will not adversely affect the amenity of adjoining properties in terms of privacy and overlooking.
2. Therefore, the Panel agreed that the Clause 4.6 requests to the non-compliance with the height and floor space ratio development standards adequately addressed the contravention of the development standards by demonstrating that compliance with the development standards was unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standards. Further, the Panel considered that the proposed development will be in the public interest because it is consistent with the objectives of the particular standards and the objectives for development within the zone in which the development is proposed to be carried out. The Panel accepted that there was an absolute need to raise the floor levels of the building to meet the flood planning levels affecting the site and this was directly attributable to the breach of the standards.
3. The Panel considered that the front enclosure sought to be removed by condition 2A(i) was an important weather protection for people entering the building and that the condition should not be imposed. The Panel noted that the only entrance to the building was via the lift (accepting that the fire stairs were not a suitable alternate entrance).
4. The Panel did not consider it necessary to remove the garden terraces as recommended by condition 2A(x). The terraces could be retained subject to some design changes.
5. The Panel noted that the basement car park was at minimum standards and condition 19A(ii) was necessary for satisfactory movements.
6. The Panel noted that the development proposed to add an on-street car space and that the changes necessary as a result of redesign and site constraints for the basement made it acceptable that there be no visitor parking provided on site. The Panel agreed that additional car stackers were not feasible.
7. The Panel considered that some changes were needed to materials and finishes to the building and that an amendment to the recommended conditions was necessary.

8. The Panel noted the provision of podium planting and considered that it could be appropriately maintained and accessed by ladder.
9. The Panel considered that a number of conditions were required to be amended or added to in order to address some of the issues raised at the Panel meeting.
10. The Panel ultimately concluded that the development was acceptable and that the recommendation of approval was appropriate (subject to the additional conditions recommended by IHAP).
11. The Panel has determined to grant consent according

#### **IHAP DECISION:**

##### **THAT:**

1. Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submissions in relation to the requested variations detailed below satisfy the relevant provisions of Clause 4.6 and are therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and these development standards be varied as detailed below, in respect to this application.

Development Standards	Clause	Requirement	Proposal	% Variation
Building height	4.3	Max. 16m	18.67m	16.7%
Floor space ratio	4.4	Max. 1.2:1	1.27:1	6.1%

2. That Development Application No.16/0314 for demolition of existing structures and construction of a residential flat building containing residential 6 units at Lot 140 DP 8483 (No. 103) Elouera Road, Cronulla for approval, be adopted with the following additional/amended conditions:
  - 2A(i): The condition be deleted.
  - 2A(x): The condition be deleted and replaced with the following
  - “The battens along the northern elevation adjacent to the two garden terraces shall be extended to the floor level of Level 5 (Apartment 07).”
  - The following condition be added:
  - “2A(xi) The proposed battens along the northern and southern elevations to Apartment 07 shall be removed and this level of the building be rendered in a light neutral finish.”
  - The following condition be added:
  - “2A(xii) An updated schedule of colours materials and finishes (in particular, the treatment/materials of the new battens) shall be provided to the satisfaction of Council prior to the issuing of a construction certificate.”
  - Condition 39A: Add the following sentence to the condition,
  - “That is, that these materials are to be non-combustible.”

**VOTES: 4:0**

<b>IHAP005.-18</b>	<b>Proposal:</b>	<b>Demolition of existing structures, construction of a mixed use development containing 20 residential units and one floor of medical facilities</b>
	<b>Property:</b>	<b>Lot 29 DP 15573, Lot A DP 387517, (Nos. 7-9) Hinkler Avenue, Caringbah</b>
	<b>Applicant:</b>	<b>Architecture Design Studio</b>
	<b>File Number:</b>	<b>DA17/0236</b>

Messrs' Shams and Dorch, on behalf of the Applicant, addressed the Panel regarding this matter.

*For Staff Report refer to IHAP005-18*

#### **PANEL COMMENTARY:**

##### *Site Visit*

1. The Panel inspected the subject site.
2. The Panel noted that the site adjoined the Sutherland Hospital to the rear.
3. The Panel noted the sensible planning philosophy to have a medical precinct abutting the Hospital site.
4. There were no objectors' properties to view.

##### *Presentations to Panel at the Public Meeting*

There were no addresses from objectors to the application.

The Applicant's representatives (Pavlo Dorch and Ihab Shams from the architects for the proposal)

1. The architects concurred with the recommendation in the assessment report.
2. The architects confirmed that the ground floor medical spaces contained 3 x entry/exit points (although the final location and number of these points may change when the uses commence).
3. The architects confirmed that the Unit 403 was designed to meet accessibility standards and was not able to be amended to allow the bedroom to directly access the balcony.
4. The architects also designed the approved development on the adjoining site at 11-13 Hinkler Ave and had adopted a similar design philosophy.
5. The architects were amenable to a condition of consent which restricted parking to the designated uses within the building.
6. The architects noted that the demolition plan was incorrect and referred to the adjoining property.
7. The architects confirmed that lift access was provided all the way to the roof top communal area.

##### *Consideration of Issues*

1. The Panel considered it was important to have clear conditions such as recommended in order to ensure that the medical uses would be an integral part of the development.

2. The Panel noted that one medical use car space was located on basement level 02. The Panel did not consider it absolutely necessary to assign that space to the medical use as the space did not have direct access to the commercial lift.
3. The Panel agreed that the Clause 4.6 request to the non-compliance with the height and landscaped area development standards adequately addressed the contravention of the development standards by demonstrating that compliance with the development standards was unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standards. Further, the Panel considered that the proposed development will be in the public interest because it is consistent with the objectives of the particular standards and the objectives for development within the zone in which the development is proposed to be carried out. The Panel noted the minor breaches of the standards. In respect to the non-compliant height the Panel noted that it arose from the pergola structure and balustrades on the roof. The Panel also considered that the ground floor amenity was improved by providing generous ground floor to ceiling heights. The Panel believe this green communal area of open space is important, and is in the public interest as it improves the amenity of the building and its occupants. The height of the building is also consistent with recent approvals for similar mixed use buildings along this street. In respect to the non-compliant landscaped area the Panel noted that the shortfall was only 31 square metres and that the rooftop provided a further communal area of open space for the development.
4. The Panel noted that the development proposed a whole ground floor for future medical uses and that such a result was wholly consistent with the provisions of LEP 2015 and DCP 2015.
5. The Panel noted the substantial compliance with the Council's planning controls.
6. The Panel noted that approval of the development was consistent with the amalgamation requirements.
7. The Panel considered that a number of conditions were required to be amended or added to provide for an improved development outcome.
8. The Panel ultimately concluded that the development was acceptable and was suitable for approval.

#### **IHAP DECISION:**

THAT:

1. Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submissions in relation to the requested variations detailed below satisfy the relevant provisions of Clause 4.6 and are therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and these development standards be varied as detailed below, in respect to this application.

Development Standards	Clause	Requirement	Proposal	% Variation
Height of building	4.3	20m	22.6m	13% (+2.6m)
Landscaping ratio	6.14	30% (331.1m <sup>2</sup> )	26% (300m <sup>2</sup> )	13% (-31.1m <sup>2</sup> )

2. That Development Application No. 17/0236 for demolition of existing structures, construction of a mixed use development containing 20 residential units and one floor of medical facilities at Lot 29 DP 15573, Lot A DP 387517 (Nos. 7-9) Hinkler Avenue, Caringbah for approval, be adopted with the following additional/amended conditions:
- The following condition be added: "1(iv) The demolition plan drawing no. 0102 Rev E shall be amended with the correct buildings to be demolished to reflect the subject site."
  - Amendment to condition 40A: That the total health service spaces be 11 and the addition of the following "The space marked MEDICAL 1 may be allocated to a residential apartment or as a visitor space as this car space is located on level 2 and does not have direct access to the commercial lift."
  - Addition to condition 40B: "The car parking for the medical facilities must only be used for that purpose. All car spaces are to be sign posted for medical or residential uses as designated."

**VOTES: 4:0**

The Meeting closed at 8:45 pm.