

Panel Members

Chairperson	Donna Rygate
Panel Experts	Grant Christmas Stacey Brodbeck
Community Representative/s	Scott McGrath

Central Coast Council Staff Attendance

Rachel Gibson	Civic Support Team Leader
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The Chairperson, Donna Rygate advised in accordance with the Code of Meeting Practice that the meeting was being conducted by Teams.

The Chair acknowledged Country.

There were no conflicts of interest declared.

Apologies

The Panel noted that an apology had been received from Stephen Glen.

REPORTS

DA/146/2022 – 275 Ocean View Parade, Ettalong Beach

Site Orientation Yes

Relevant Considerations As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report
- Supplementary report
- Amended clause 4.6 requests

Council Recommendation Refusal

Panel Decision

- 1 That the Local Planning Panel refuse consent to DA/146/2022 – 275 Ocean View Parade, Ettalong Beach for the demolition of existing structures and construction of a five storey mixed use building – subject to the reasons for refusal listed below and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979.**
- 2 That Council advise those who made written submissions of the Panel's decision.**
- 3 That Council advise relevant external authorities of the Panel's decision.**

Reasons

The matter was deferred by the panel on 12 October 2023 at the applicant's request, and the applicant was given the opportunity to present a revised scheme within 1 month of the Panel's meeting that addressed the issues in Council's Assessment Report. The applicant was also asked to submit a revised clause 4.6 request in the same timeframe should it be necessary to justify any remaining non-compliance with the height of buildings and floor space ratio standards with reference to the requirements referenced in the clause.

The development application has not changed from that considered by the panel on 12 October 2023. No revised scheme was submitted, but the applicant did submit two amended clause 4.6 requests.

The development application has been assessed under the heads of consideration of section 4.15 of the *Environmental Planning and Assessment Act 1979* and in accordance with all relevant instruments and policies.

The potential opportunities and constraints of the site have been assessed and in summary it is considered that the site is not suitable for the proposed development and that it is not in the public interest.

The proposal does not comply with the maximum height of building and floor space ratio controls applying to the site under GLEP 2014 and the clause 4.6 requests are not supported. The proposal has not demonstrated satisfactory compliance with the Apartment Design Guidelines (ADG) or Council's DCP controls and has not reasonably addressed amenity and other impacts.

The proposed development is inconsistent with *State Environmental Planning Policy (Housing) 2021*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979* as it does not comply with the following requirements of the Apartment Design Guide:

- a) Deep soil
- b) Visual Privacy
- c) Solar and Daylight Access

The Panel cannot be satisfied that the provisions of *State Environmental Planning Policy (Housing) 2021* have been satisfied.

The proposed development is inconsistent with the following clauses of the *Gosford Local Environmental Plan 2014*, pursuant to Section 4.15 (1)(a)(i) of the *Environmental Planning and Assessment Act 1979*:

- a) Clauses 4.3 and 4.4 - The proposal is inconsistent with Clauses 4.3 and 4.4 of LEP as the proposal will result in a breach of the development standards relating to height of buildings and maximum Floor Space Ratio (noting Council's ongoing concern about the accuracy of the applicant's calculation of the gross floor area of the building).
- b) Clause 4.6 - Exceptions to Development Standards, where the written justification has not provided sufficient grounds for the proposed significant breach to the height of buildings and Floor Space Ratio development standards.

The Panel cannot be satisfied that the provisions of these clauses of *Gosford Local Environmental Plan 2014* have been satisfied.

The proposed development is inconsistent with the Gosford Development Control Plan 2013 pursuant to Section 4.15 (1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* including (at least in part) the following sections:

- a) Chapter 2.1 – Scenic Quality and Character
- b) Chapter 4.2 – Peninsula Centres:
 - Vision
 - 4.2.5.1 Street frontage controls
 - 4.2.5.2 Building height
 - 4.2.5.3 Building setbacks and envelopes
 - 4.2.5.4 Building separation

- 4.2.5.5 Building Depth
- 4.2.6 Building Articulation
- 4.2.6.2 Top Floor Design and Roof Forms
- 4.2.6.4 Active Street & Active Laneway frontages
- 4.2.6.6 Awnings
- 4.2.7.2 Internal Common Circulation
- 4.2.7.2 Solar Access
- 4.2.7.4 Ventilation
- 4.2.7.5 Visual Privacy
- 4.2.7.6 Acoustic Privacy
- 4.2.7.7 Private Open Space
- 4.2.7.10 External Clothes Drying Facilities
- 4.2.8 Housing Choice
- 4.2.12.4 Waste and Recycling
- 4.2.12.5 Wind Mitigation

The proposal is considered to be an unsuitable design which does not address the site constraints. The application has failed to adequately demonstrate that the site is suitable for the development pursuant to section 4.15(1)(c) of the *Environmental Planning and Assessment Act 1979*.

The adverse impacts of the proposal mean that the site is not considered to be suitable for the development as proposed, pursuant to *Section 4.15 (1)(c)* of the *Environmental Planning and Assessment Act 1979*.

The Applicant has not submitted a designer's statement that complies with clause 29 of the EP&A Regulation.

Having regard to submissions received, the non-compliances with the planning controls and amenity impacts, the proposal is not in the public interest, pursuant to *Section 4.15 (1)(e)* of the *Environmental Planning and Assessment Act 1979*.

The Panel cannot be satisfied that the proposed development is satisfactory having regard to the matters for consideration provided in section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Votes

The decision was unanimous