

Environmental Health and Regulation Committee



Report Title: Planning Proposal 10-14 Merton Street, Sutherland

Report Number: EHR049-16

Committee Meeting Date: 07/03/2016

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Number:

427

EXECUTIVE SUMMARY

- A planning proposal has been received for two adjoining sites at 10 Merton Street and 12-14 Merton Street, Sutherland which seeks to amend the height limit from 20m to 36m and the floor space ratio (FSR) from 1.5:1 to 3:1.
- The planning proposal has not satisfactorily demonstrated that the proposed height and FSR are necessary or desirable to facilitate development of the site. The scale of the resultant building would not be appropriate in this particular context and will not provide adequate amenity to future residents or for adjoining properties.
- The Planning Proposal is not supported.

REPORT RECOMMENDATION

That the applicant be advised that the planning proposal is not supported as the proposal would result in development that is inconsistent with the character, bulk and scale of surrounding development; unreasonably overshadow existing residential buildings to the south; and fails to demonstrate that future units will meet the minimum amenity standards established by the Apartment Design Guidelines.

PURPOSE

The purpose of this report is to consider a planning proposal received for two adjoining sites at 10 Merton Street and 12-14 Merton Street, Sutherland which seeks to amend the height limit from 20m to 36m and the floor space ratio (FSR) from 1.5:1 to 3:1.

BACKGROUND

On 23 December 2014 a planning proposal was lodged with Council seeking to amend the height and FSR development standards applicable on two adjoining sites at 10 Merton Street (Lot 151 DP 1020267) and 12-14 Merton Street (Lot 152 DP 1020267), Sutherland. Initial assessment found deficiencies in the documentation submitted. Council officers requested further information in January and again in February 2015. In July 2015 an addendum to the planning proposal was submitted by the applicant. The addendum provided only some of the requested information and did not address the flaws in the modelling initially provided. Despite further correspondence between Council and the applicant, a Planning Context Study was not submitted until 5 January 2016.

DISCUSSION

Site and Context

The site is approximately 3110m² and is located on eastern side of Merton Street. The land is zoned R4 High Density Residential and is currently occupied by two single dwellings. The site is located south of Flora Street which is within the B3 Commercial Core zone. The site is east of Sutherland Public School. It also adjoins the western boundary of St Patrick's School. Both schools are zoned SP2 Infrastructure Educational Establishment.

Lots on the Southern side of Flora Street are zoned B3 Urban Centre and have a height of 20m and a FSR of 2.5:1. The site on the corner of Flora Street and Merton Street, immediately to the north of the subject site, has a height of 30m and FSR 3:1. Lots on the northern side on Flora Street are zoned B3 Urban Centre, with height 30m and FSR of 4:1 (see extract Appendix A).

Planning Proposal and Applicant's Justification

The planning proposal seeks a 36m height limit and a Floor Space Ratio of 3:1 on the basis that development at 6 storey height is not feasible. In support of the application, the applicant submits the following:

The subject site is supremely well located adjacent to Sutherland town centre commercial area.

The site is within a 250m radius of the railway station.

Six storey height limits within Sutherland have not been viable for many years.

The site has been subject to modelling and overshadowing analysis to understand impact.

Many of the sites earmarked for development are unlikely to ever be taken up due to extremely fragmented

ownership and high existing commercial yields.

This site is sufficiently large, appropriately located and ready for development and these sites should be considered as part of Council's overall strategy which seeks to provide 10,100 new dwellings by 2031 to meet Sydney Metropolitan Strategy targets.

The proposal seeks to complement the State Government's and Council's initiative to stimulate jobs and provide new higher density in town centres.

The Sydney Metropolitan Plan notes Sutherland as a key growth centre in the Shire over the next 25 years and even notes its potential to become a major centre.

Background to Height and Density Standards - SSLEP2015

The development standards under SSLEP2006, SSLEP2015 and the planning proposal are illustrated below:

	SSLEP 2006	SSLEP 2015	Planning Proposal
Zoning	Zone 6 - Multiple Dwelling B	R4 High Density Residential	R4 High Density Residential
Floor Space Ratio	1:1 (if both lots developed together)	1.5:1	3:1
Height	3 storey	20m (6 storey approx)	36m (11 storey approx)
Landscaped Area	40%	30%	30%

The development standards applicable to 10-22 Merton Street, were considered in detail during the preparation of SSLEP2015. The first exhibited version of SSLEP2013 showed an increase of height and density to 20m and FSR 1.5:1. Council increased the height and density for the second exhibition to 40m and 4:1 (Mayoral Minute No. 6/13-14). During the second exhibition three submissions were received objecting to the height and density increase. In response Council reduced the FSR to 3:1 and retained the 40m height limit for the third exhibition of draft plan. Three submissions were received during the third exhibition which objected to increased density on the basis of overshadowing, adverse streetscape impacts, adverse bulk and scale, inconsistency with local context, impacts on St Patrick's school and lack of parking. At the time the owners of 10-14 Merton Street, Sutherland requested that the height be maintained at 40m with a FSR at 3:1. Council officers undertook a significant level of design analysis and advised that the scale of development as exhibited was not appropriate. The conclusions reached were that future built forms would compromise the ability to achieve a reasonable transition in scale to the surrounding lower density residential flat buildings and would compromise the ability to preserve a reasonable level of amenity for residents of 16-18 Merton Street. In essence development at the height and density exhibited would have result in a large built form that would stand as a tower in its immediate context.

Council subsequently resolved (DAP043-15

(4) With respect to Chapter 44: Sutherland Centre

(i) That the Minister for Planning be requested to return the development standards applying to 10-22 Merton Street, Sutherland to those exhibited in LEP1, being a height limit of 20m and a FSR 1.5:1. In the event that the Minister is of the view that this change requires public exhibition, the Minister be requested to defer the land from the Local Environmental Plan.

The plan was made with a height limit of 20m and a FSR 1.5:1.

Analysis of the Planning Proposal

1. Feasibility of Development

The planning proposal claims that 6 storey development is not feasible however, it does not include a feasibility study in support of its claim. This information was requested but has not been provided.

Under SSLEP2006 the residential flat zone in Sutherland had been limited to 3-4 storeys with a FSR of 1:1 up to 1.2:1. It is clearly evident that development has proceeded over past years with these development standards. SSLEP2015 increased the development potential throughout the R4 zone and development opportunities are being taken up at this density under current market conditions. In the absence of any financial modelling, it is considered that the applicant's claim that development is not feasible at current densities is unfounded.

It is agreed that low take up rate in the centre is primarily due to the high cost of acquisition of sites in the urban centre, arising from the need to amalgamated small commercial sites occupied by existing successful businesses. In contrast, the subject site comprises single dwellings on large lots of land. This is typical of the sites which have been successfully developed for residential flats in Sutherland.

The claimed benefits for the supply and cost of housing in Sutherland Centre arising from the proposed additional height and density are also not adequately demonstrated in the planning proposal. While on the face of it, an increase in FSR and density would appear to provide for increased opportunity for housing close to the centre, the reality is increasing land and construction costs can undermine the financial viability of development. Construction costs are likely to be significantly higher as buildings over 25m (8 storeys) must comply with higher and more expensive fire safety standards and additional basement car park levels are necessary to accommodate the increased parking demand. Such increased development costs may actually decrease the feasibility of developing on this site, ultimately stalling its development.

2. Overshadowing Modelling Relies on Inaccurate Assumptions

The planning proposal seeks to demonstrate that overshadowing from a building of the height and density proposed will not have any greater impact on adjoining development than that from a complying development

under SSLEP 2015. However, the overshadowing analysis is not well founded, as it is based on incorrect assumptions regarding the street setback and FSR achieved by the modelled built form. It does not directly compare the proposed height and density with that is permissible under SSLEP2015.

The key flaws in the assumptions are:

- i. The buildings modelled rely on a 0.5m setback to Merton Street at all levels of the building. However, the residential flat zone under both SSDCP2006, and draft SSDCP2015, requires a 7.5m street setback. Given that this is a street of typical residential flats a 1.5 metres setback is completely out of context. Siting the building on the 7.5m setback is expected to significantly increase the impacts of overshadowing because the floor space will be realised closer to the rear of the site, increasing the potential for overshadowing the school to the east and exacerbating overshadowing to residential properties to the south of the site.
- ii. The modelling is used to support a claim that the height and density proposed does not result in any greater adverse overshadowing impact than the height and density in SSLEP2015. However, the built form which is modelled and subsequent overshadowing assessments do not include a building of the height and density applied under SSLEP2015, being 20m with a 1.5:1 FSR. Therefore it is not possible to make any valid comparison.
- iii. The modelled building does not appear to result in the stated FSR of 3:1. An envelope has been derived, compliant with the minimum set back requirements of Apartment Design Guide (ADG) of SEPP65, and from this floor plates create a building envelope. The modelling assumes that only 11% of the envelope will not be used as floor space. The ADG recommends that the achievable floor area of a building be at least 20% to 25% less than that of the building envelope to allow for building circulation, plant etc. The proposed envelope of 10,110m² would yield an area of between 7582.5 and 8088m², resulting in an FSR between 2.4: and 2.5:1. Therefore, the shadow diagrams for the preferred option are based on a building design which does not realistically represent a FSR of 3:1. Applying an FSR of 3:1 on this site would therefore allow for a building of even greater bulk, increasing overshadowing as well as creating additional amenity impacts.

3. Context

The proposal does not consider the full context of the site within the R4 zone and its relationship with the adjoining commercial centre. It would sit as an isolated tower in a comparatively low density context. The key issues are outlined below:

i. Form

A large proportion of the common open space for the subject site is on the southern side of the building. This space will receive no solar access throughout the winter months. This strategy also leaves the proposed building vulnerable to over shadowing from future built form on the adjoining sites to the north. These sites can be developed to heights of up to 30m under the LEP.

The modelling undertaken by Geoform shows only an isolated view of the subject site and its impact upon the adjoining site to the south. It does not explore how the proposal relates to the adjoining sites to the north to establish a pattern of development that fits with this precinct and provides a good level of amenity for the subject site.

No built form diagram has been provided to show what built form would be generated by the SSLEP2015 controls (1.5:1 and 20m in height).

ii. Streetscape

The proposal provides a 500mm set back to Merton Street. This would be out of character with the residential zone within which the building is situated. A set back of this type would only be acceptable in a mixed use building in a business zone. A residential unit requires far more generous setbacks to provide privacy to residents and allow for landscaping. The proposed 0.5m set back in this context will create an extremely poor interface with the street, creating ground floor units with very poor amenity.

iii. Height

The subject site is located in a high density residential area (zone R4) adjoining Sutherland's commercial core (zone B3). The adjoining sites to the north located within the commercial core (zone B3) are proposed to have height of 20m and 30m. The site is isolated from taller (40-45m) buildings within the B3 zone.

An appropriate built form on this site needs to allow for a transition in scale between Sutherland's commercial core and the existing, established residential flat area. Instead of providing a transition, the planning proposal increases the building height. Surrounding residential and educational lands, while having a permissible height of 20m under SSLEP2015, are highly unlikely to be redeveloped. The residential development immediately to the south is a modern, strata subdivided, 3 storey residential flat building which was only completed in 2006. The reliance on the future redevelopment of surrounding sites to justify the height increase on the subject site is therefore unwarranted.

4. Non Compliance with SEPP 65 – Impacts on Internal Amenity

The proposal has not demonstrated compliance with the ADG - SEPP 65. It has not been demonstrated that the

proposed units can achieve the minimum solar access and ventilation requirements. Furthermore no account is taken of overshadowing from potential 30m and 20m high buildings that can be accommodated on the adjoining sites to the north. A significant level of over shadowing will be created by these neighbouring buildings. This factor must be taken into account to determine an appropriate built form for the subject site. As such, the planning proposal has not demonstrated that the proposed increase in height and density will result in a building that will provide an adequate level of amenity for future residents.

Development Applications

Council officers are currently considering DA15/1032 for 10 Merton St containing thirty-six (36) units and basement parking, and have recently held a Pre-Application discussion (PAD15/0177) for 12-14 Merton St containing 26 units and basement parking. Concerns have been raised that the minimal side setbacks proposed for each development will ultimately have adverse impacts on adjoining properties. It is evident that development of the two sites independently is problematic; however it is also evident that increasing FSR and height will exacerbate amenity impacts. The current development proposals and this planning proposal tend to suggest that the best solution is a single development on an amalgamated site to the height and density currently set by SSLEP2015.

CONSULTATION

Should the Planning Proposal be supported by Council and approved at Gateway, it would be subject to public consultation. Consultation requirements are set within the Gateway Approval but generally involve a 14 or 28 day public exhibition with documentation available for public viewing.

BUDGET AND RESOURCES

The preparation of a Planning Proposal to progress these Local Environmental Plan (LEP) amendments is budgeted for within the budget and resources allocation to Strategic Planning. A portion of these costs are recovered through the planning proposal application fee.

POLICY

If the Planning Proposal is supported by Council and the State Government, it will amend Sutherland Shire Local Environmental Plan 2015 (SSLEP2015).

CONCLUSION

The planning proposal has not satisfactorily demonstrated that the proposed 36m height limit and 3:1 FSR are necessary or desirable to facilitate development of the site; nor that will they result in a built form that is appropriate in this particular context. The Planning Proposal also fails to demonstrate that it can provide adequate amenity to adjoining properties and future residents. While Council's study of this site confirms that these

objectives can be achieved with an FSR 1.5:1 and a height of 20m, the planning proposal has not demonstrated that they can be achieved with the proposed 3:1 FSR and height of 36m. Therefore the Planning Proposal is not supported.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Manager Strategic Planning, Mark Carlon, who can be contacted on 9710 0523.

File Number: 2015/87412

COMMITTEE RECOMMENDATION

That the applicant be advised that the planning proposal is not supported as the proposal would result in development that is inconsistent with the character, bulk and scale of surrounding development; unreasonably overshadow existing residential buildings to the south; and fails to demonstrate that future units will meet the minimum amenity standards established by the Apartment Design Guidelines.

(The Mayor, Councillor Pesce / Councillor Walton)

COUNCIL RESOLUTION

That the applicant be advised that the planning proposal is not supported as the proposal would result in development that is inconsistent with the character, bulk and scale of surrounding development; unreasonably overshadow existing residential buildings to the south; and fails to demonstrate that future units will meet the minimum amenity standards established by the Apartment Design Guidelines.

APPENDIX

Appendix A



Sutherland Centre - Aerial Photo 2015.pdf



Sutherland Centre - SSLEP2015 Zoning.pdf



Sutherland Centre - Height of Buildings Map SSLEP2015.pdf



Sutherland Centre - Maximum Floor Space Ratio Map SSLEP2015.pdf



10-14 Merton St Examples of the Built Form.pdf