

Panel Members

Chairperson	Heather Warton
Panel Experts	Louise Menday David Furlong
Community Representative/s	Adam Koutsamanis

Central Coast Council Staff Attendance

Emily Goodworth	Section Manager, Employment and Urban Release
Amy Magurren	Senior Development Planner, Residential Assessments
Ailsa Prendergast	Section Manager, Residential Assessments
Nathan Burr	Principal Development Planner, Employment and Urban Release
Dean Wooding	Senior Development Planner, Employment and Urban Release
K. Singh	Senior Development Planner, Residential Assessments
Evert Grobbelaar	Development Planner, Residential Assessments
Brian Pike	Tree Assessment Officer, Development Advisory Services
Jed Field	Senior Ecologist, Development Advisory Services
Kate Alberry	Senior Development Planner, Residential Assessments
Lisa Martin	Civic Support Officer
Tess McGown	Civic Support Officer

The Chairperson Heather Warton declared the meeting open at 12:19pm and advised in accordance with the Code of Meeting Practice that the meeting was being recorded.

The Chair read an acknowledgement of country statement.

Apologies

The Panel noted that no apologies had been received.

Public Forum

The following people addressed the Panel:

Item 3.1 - DA/2046/2023 - 250-254 Terrigal Drive, Terrigal - Extension of Operating Hours - Coles Express Service Station

- 1 David Dickson (statement read by Lisa Martin) – AGAINST

Item 3.2 - DA/426/2024 - 24 Myola Road, Umina Beach - Dwelling House

1. Felipe Cunha (Applicant) – FOR
2. Greg Tesoriero of CPS Planning (Applicant) - FOR

Item 3.3 - DA/2056/2023 - 140 Trafalgar Ave, Umina Beach - Multi Dwelling House - 4 Units

- 1 Jennifer Wilder – AGAINST
- 2 Francis Wiffen – AGAINST
- 3 Deborah Sunartha – AGAINST
- 4 Melika Mokhtari – Developer (Applicant) – FOR

Item 3.4 - DA/164/2024 - 210 Pacific Highway, Charmhaven - Telecommunications Tower

- 1 Geoff Bof – AGAINST
- 2 Rae Bof – AGAINST
- 3 Rachelle McConnon – AGAINST
- 4 Mitchell Flint of Downer Group (Applicant) – FOR
Kaitlen Perkins of Downer Group – FOR
Darsh Wanninayake – Engineer (Applicant) – FOR

Item 3.5 - DA/1317/2023 - 97-99 Booker Bay Road, Booker Bay - Alterations and Additions

- 1 Geoffrey Warr – AGAINST
- 2 Chris Higgins – AGAINST
- 3 Danny Mourani and Clare Ware – (Applicant) – FOR
Andrew Doring of Doring Design Architect – FOR
Tim Shelley – Town Planner - FOR

The Local Planning Panel public meeting closed at 2:22pm.

The Panel moved into deliberation from 2:45pm.

PROCEDURAL ITEMS

1.1 Disclosures of Interest

The Panel Members confirmed that they have signed a declaration of interest in relation to each matter on the agenda. No members of the Panel identified any Conflicts of Interest for this meeting.

CONFIRMATION OF MINUTES OF PREVIOUS MEETINGS

2.1 Confirmation of Minutes of Previous Meeting

The minutes of the previous Local Planning Panel Meeting held on 28 November 2024, which were endorsed by the Chair of that meeting, were submitted for noting.

PLANNING REPORTS

3.1 DA/2046/2023 - 250-254 Terrigal Drive, Terrigal - Extension of Operating Hours - Coles Express Service Station

Site Inspected	Yes, via briefing meeting and by the Community Representative
Relevant Considerations	As per Council assessment report
Material Considered	<ul style="list-style-type: none">• Documentation with application• Council assessment report• Written Submissions and the submission read on behalf of an objector at the Public Meeting.
Council Recommendation	Refusal
Panel Decision	<ol style="list-style-type: none">1. The Local Planning Panel refuse consent to DA/2046/2023 at Lot 100 DP 1132889, known as 250-254 Terrigal Drive, Terrigal NSW for an extension of operating hours to 24 Hours 7 Days - Coles Express Service Station having regard to the matters for consideration detailed in Section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i>.

2. Council advise those who made written submissions of the Panel's decision.

3. Council advise relevant external authorities of the Panel's decision.

Reasons for refusal

The proposal is not satisfactory having regard for the relevant environmental planning instruments, plans and policies:

1. Inaccurate information has been provided of the approved hours and the Noise Impact Assessment identifies sleep disturbance noise impacts. The proposal does not propose mitigation measures to ensure reasonable amenity to surrounding properties.
2. There is insufficient information in relation to light spillage and how the extension of operating hours between midnight and 6am may adversely impact the amenity of surrounding properties.
3. Inadequate and inaccurate information has been provided in respect of operating procedures, crime prevention and servicing arrangements, and how the extension of operating hours between midnight and 6am may adversely impact the amenity of surrounding properties.
4. Insufficient information has been provided to adequately demonstrate that the proposed extension of hours will not adversely affect residential amenity having regard for the objectives of the R1 (General Residential) Zone.
5. The proposal is not considered satisfactory in relation to Central Coast Development Control Plan 2022, Chapter 2.5 – Commercial Development, clauses 2.5.6.3, 2.5.7 and 2.5.8.
6. The proposal has the potential to adversely impact on the amenity of adjoining properties. There is no demonstrated need or benefit to the community of the extended trading hours. In the absence of information to demonstrate otherwise, the proposed development is not considered to be in the public interest.

Reasons for decision	The Panel considered the application, the written submissions, the submission made at the public meeting and the Council's assessment report. The Panel generally concurs with Council's assessment that the development application not be supported given the range of issues raised, and the lack of information provided regarding the impacts of the proposed extended trading hours, particularly as the site is located in a residential zone.
Votes	The decision was unanimous

3.2 **DA/426/2024 - 24 Myola Road, Umina Beach - Dwelling House**

Site Inspected	Yes, at the online meeting, and by the Community Representative
Relevant Considerations	As per Council assessment report
Material Considered	<ul style="list-style-type: none">• Documentation with application• Council assessment report• Written Submissions and those made at the Public Meeting.
Council Recommendation	Approval, subject to conditions.
Panel Decision	<p>The Local Planning Panel grants consent to DA/426/2024 at lot 300 DP10633 known as 24 Myola Road, Umina Beach, NSW for construction of a dwelling house and associated works, having regard to the matters for consideration detailed in Section 4.15 of the <i>Environmental Planning and Assessment Act 1979</i> and other relevant legislation.</p> <p>This is subject to the conditions detailed in Attachment 1 of the report, as amended as follows:</p> <ul style="list-style-type: none">• Condition 2.4 be expanded to state: 'Evidence is to be provided that compliance has been met with the recommendations in Section 5.2, of the approved Bushfire Report, referred to in Condition 1.1, prior to the issue of the construction certificate.'• Condition 9.2 be added to read:

'The on-going bushfire mitigation measures are to maintained in perpetuity, as required in the recommendations in Section 5.1, 5.3, 5.4 of the approved Bushfire Report, referred to in Condition 1.1'

- **Condition 8.1 be deleted and the reference to 'No Conditions' apply (the application not being for a manufactured home).**
- 2 Council advise those who made written submissions of the Panel's decision.**

Reasons for decision

- 1 The Panel considered the application, the written submissions, the submissions made at the public meeting and the Council's assessment report. The Panel generally concurs with Council's assessment that the development application be approved.
- 2 The Panel noted the community's concern regarding the loss of trees, but acknowledges that the assessment of Council's Ecologist is that these are not part of an EEC; specific trees will be required to be retained and protected during construction; and additional plantings are proposed, as identified in the approved Arboricultural Impact Assessment Report and shown on the Landscape Plan.

Votes

The decision was unanimous

3.3 DA/2056/2023 - 140 Trafalgar Ave Umina Beach - Multi- Dwelling Housing - 4 Units - Modified

Site Inspected

Yes, via briefing meeting and by the Community Representative.

Relevant Considerations

As per Council assessment report.

Material Considered

- Documentation with application
- Council assessment report superseded by the Supplementary Report, dated 16 December 2024
- Written Submissions and those made at the public Meeting

Council Recommendation

Approval, subject to conditions.

- Panel Decision**
- 1 The Local Planning Panel grants consent to DA/2056/2023 at Lot 3 Section 8 in DP 19850, known as 140 Trafalgar Avenue, Umina Beach NSW, for demolition of an existing dwelling house and construction of a four unit multi-unit development. This is having regard to the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other relevant legislation.
 - 2 This is subject to the conditions in Attachment 13, of the report, as amended as follows:
 - Condition 1.3 is to refer to Section 75 of the *Environmental Planning and Assessment Regulation 2021* (and not the reference to the Regulation 2000);
 - Delete Conditions 3.1, 71, 8.1 and 8.2 and the reference to 'No conditions' applied under each heading.
 2. Council advise those who made written submissions of the Panel's decision.

- Reasons for decision**
- 1 The Panel considered the application, the written submissions, the submissions made at the Public Meeting and the Council's assessment report. The Panel generally concurs with Council's assessment that the development application be approved.
 - 2 The Panels notes that the proposal was amended during the assessment to improve the layout of the dwellings and reduce the density.

Votes The decision was unanimous

3.4 DA/164/2024 - 210 Pacific Highway Charmhaven - Telecommunications Tower

Site Inspected Yes, via briefing meeting and by the Community Representative.

Relevant Considerations As per Council assessment report .

Material Considered • Documentation with application

- Council assessment report
- Written submissions and those made at the Public Meeting

**Council
Recommendation**

Approval, subject to conditions.

Panel Decision

- 1 **The Local Planning Panel grant deferred commencement consent to DA/164/2024 at Lot 1 DP 210687, known as 210 Pacific Highway Charmhaven, NSW for a telecommunications facility and associated infrastructure, having regard to the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other relevant legislation.**

The deferred commencement condition is to read:

'This consent does not operate until the following has been satisfied:

- (a) **Provide revised plans showing the relocation of the development further to the north, so that the southern edge of the 'compound area' (as shown on Drawing Draft site Layout S5495-P1 Rev 01) is no less than 15m, and no more than 25m from the southern property boundary.**

Details shall be submitted to the satisfaction of the Council's Unit Manager of Development Assessment, sufficient to enable Council to be satisfied that above condition has been complied within 12 months of the date of this approval, otherwise this consent will lapse.

Upon compliance with the conditions of deferred commencement Council will issue an operative consent (including stamped plans) that is subject to the attached conditions.'

The 'attached conditions' are the Conditions in Attachment 8 of the report, subject to the following amendment:

- **Conditions 3.1, 7.1 and 8.1 are deleted and state 'No conditions' under each heading.**

- 2 **Council advise those who made written submissions of the Panel's decision.**

3 Council advise relevant external authorities of the Panel's decision.

Reasons for decision

- 1 The Panel considered the application, the written submissions, the submissions made at the public meeting and the Council's assessment report. The Panel generally concurs with Council's assessment that the development application be approved.
- 2 However the Panel is of the view that the proposed location of facility is not appropriate and that the compound, comprising the tower and cabinet should be relocated further north, away from the existing dwelling at 208 Pacific Highway. This is also considering the location of the proposed dwelling at 212 Pacific Highway. This is to reduce the visual and acoustic impact on the adjoining residents. The Panel is of the view that there is sufficient space at the rear of the service station to accommodate the proposal.

Votes

The decision was unanimous

3.5 DA/1317/2023 - 97-99 Booker Bay Road, Booker Bay - Alterations and additions to the existing childcare centre

Site Inspected

Yes, via briefing meeting and by the Community Representative

Relevant Considerations

As per Council assessment report

Material Considered

- Documentation with application, noting the amended plans Rev F
- Council assessment report, and Memo dated 19 December 2024
- Waste Management Plan for the original DA
- Written submissions and those made at the Public Meeting.

Council Recommendation

Approval, subject to conditions.

Panel Decision

1 The Local Planning Panel refuses consent to DA/1315/2023 at Lot 100 DP 1279721 and Lot A DP 316973, known as No.

97-99 Booker Bay Road and No. 2 Davis Street, Booker Bay for the alterations and additions to the existing childcare centre, having regard to the matters for consideration detailed in Section 4.15 of the *Environmental Planning and Assessment Act 1979* and other relevant legislation.

2 Advise those who made written submissions of the Panel's decision.

Reasons for Refusal

- 1 The application has been lodged as 'alterations and additions' to an approved child care centre on the site 97-99 Booker Bay Road, but the application fails to adequately address the cumulative impacts of what will be the expanded child care centre, with a considerable increase in child care places (from approved 67, to proposed 117).
- 2 No mechanism was proposed in the application to combine what would be two consents for the one operation, noting that the subject application is not a 'standalone' development. The proposal needs to be re-cast as a development application to extend the development and use, and to amend the existing consent.
- 3 The number of staff proposed in the centre is unclear. The Council Assessment Report indicates that this will be 16 staff including administration and food preparation, but the actual number of staff who are educators at the site at any one time, plus support staff (administration staff, nominated supervisor, part time vs full time staff) is unclear. This has implications for the provision of car parking.
- 4 Assuming that there will be a maximum of 16 staff at the site at any one time, the proposal has a considerable shortfall in on-site car parking – Section 2.13 of Central Coast DCP 2022 requires 16 staff spaces plus 19.5 (20 spaces) for temporary stand spaces for drop off./pick up of children, total of 36 spaces, whereas only 29 spaces have been provided. Reliance is placed on the parking shortfall approved under the existing DA, but the application is for a considerable expansion of that development, such that the parking requirement for the centre as a whole needs to be addressed. Bicycle parking is said to be compliant, but is not evident on the drawings.

- 5 The visual impacts of the required acoustic fences on the adjoining properties has not been adequately addressed. No agreement of the adjoining owner of no.4 Davis Street has been obtained for a dividing fence 3m high, located on the boundary, and a structure of this height is not acceptable. A reduction in the number of children using the subject outdoor space, or/or a suitable setback of the wall and mitigation of its impact through landscaping and any acoustic wall providing suitable materials is required.
- 6 No schedule of finishes and materials has been provided in order to assess the suitability of the proposal, including the treatment of the acoustic fences.
- 7 The side and rear setbacks are non-compliant with that required under Chapter 2.1 of Central Coast DCP 2022; and the front setbacks to Davis Street of the car park area, with minimal landscaping and at the first floor has not been addressed and in terms of compliance with Consideration C13 of the *Child care planning guideline* (1 October 2021) (the Guideline).
- 8 The submitted Waste Management plan is inadequate. The WMP fails to assess the total waste requirement for the development, and the required provision for at least 10 x 240l general waste bins, 6 x 240l recycling bins and 3 x 240 l green bins is not evident on the submitted plans. The location of the bin structure, of unspecified height directly on the northern boundary is not acceptable. There is no provision for a holding area for the clinical, nappy and sanitary waste, and no explanation as to where these waste collections will take place (which needs to occur on -site), the hours of collection the frequency of collection, and the means by which the waste is transported to the collection area.
- 9 The setback from the boundaries of the acoustic fences is unsatisfactory, including the treatment of the front setback to Davis Street and setback from neighbouring residential dwellings. The drawings provide insufficient information on the proposed materials of the walls. The nil setback of the car park to no. 4 Davis Street is unacceptable.
- 10 The indoor and outdoor storage in accordance with Regulation

107 of the Guideline needs to be nominated and the volume per room indicated, and the total volume of storage tabulated. This is required prior to consent. Storage areas are not to be included in the calculations for unencumbered outdoor and indoor space.

- 11 There are no drawings in the architectural plans showing the areas included and excluded for the unencumbered outdoor space or indoor space, noting that storage areas (area not shown); and for outdoor areas, hedges or planting along boundaries are to be excluded, in accordance with 4.1 Indoor space requirements, Regulation 107 and 4.9 Outdoor space requirements, Regulation 108 of the Guideline.
- 12 A plan of management (POM) has not been provided, which at a minimum should document the implementation of the required acoustic measures, for example the Acoustic Report assumes only 96 children will be in the outdoor play areas at any one time, with specific assumptions made regarding the number of children in each outdoor space. The implementation of these restrictions needs to be documented in a POM.

In summary, a POM is required, to address:

- a) Capacity of centre and Educator Ratios
- b) Hours of operation
- c) Staff numbers and parking
- d) Staff arrival times and leaving times
- e) Whether meals will be cooked and prepared on site, or prepared and delivered from elsewhere; or not provided. If the latter, the kitchen and room layout needs to show adequate refrigerated storage for food and drinks for the children
- f) Provision for delivery vehicles, and times of deliveries
- g) Parents & carers/children arrival and departure times
- h) Any recommendations and acknowledgment of the assumptions of the acoustic report and addendum letter dated 14 November 2024 prepared by Spectrum Acoustics
 - i) Traffic and Parking management
 - j) Fire safety and emergency and reference to the Emergency management plan; and a diagram showing the emergency exits and gathering spaces.

- k) Commitments to community and neighbour and noise management
 - l) Waste collection and removal, with reference to the operational management plan for all streams of waste.
- 13 Overshadowing of the neighbouring properties, including to private open space and solar panels has not been adequately addressed.
- 14 There is no explanation as to how the one way- drop off arrangement from Davis Street will work if the car parking spaces are full, requiring movement through the car park, and staff parking area back to the street. Measures to ensure visitors do not park in the staff car parking spaces are not explained.
- 15 A BCA report was not submitted. In particular the requirements of C1D4 of the BCA/NCC requiring 1.8m barriers to outdoor areas located 2m from the surface beneath needs to be addressed, and the barriers and materials and finishes shown on the architectural drawings.
- 16 The submitted landscape plan provides no details of the species and quantiles of proposed plants. In order to comply with the provisions of 4.10 Natural environment, Regulation 113 of the Guideline; natural materials, and not synthetic grass should be the predominant surface in the outdoor spaces.
- 17 The provision for natural ventilation and any proposed air conditioning is unclear, as the architectural plans provide insufficient details of the type of windows and whether they are openable or not. Reliance of natural light and ventilation and sustainability measures are not explained, in order to consider compliance with 4.4 Ventilation and natural light Regulation 110, Design quality principle 4 -Sustainability. This requires consideration of matters beyond a Section J Report under the BCA.
- 18 Consent should not be granted as the proposal is not consistent with the Guideline Design quality principles and the Matters for consideration, particularly those aspects that require consideration of the environmental impacts and

impacts on the amenity of the development in this residential location.

Reasons for decision

The Panel considered the application, the written submissions, the submissions made at the public meeting and the Council's assessment report.

The Panel supports the provision of additional child care centre places, as it is understood that there is a significant need for the facility in the Booker Bay locality. However, for the reasons for refusal above, the Panel is of the view that the proposal is an overdevelopment of the site, and provides inadequate drawings, supporting information and consideration of the impacts of the intensified centre as a whole, and cannot be supported in its current form. This is particularly in light of the impacts on the amenity of the adjoining neighbours.

Votes

The decision was unanimous

PLANNING REPORTS- OUTSIDE OF PUBLIC MEETING

4.1 DA/3950/2022 - 360 Cullens Road, Kincumber - Proposed Dwelling House and Swimming Pool

Site Inspected Yes, via briefing meeting and by the Community Representative

Relevant Considerations As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report
- Submissions

Council Recommendation Approval, subject to conditions.

Panel Decision **1 The Local Planning Panel grants consent to DA/3950/2022 for the proposed construction of a new dwelling house with terrace/roof swimming pool and detached double garage and on Lot B DP 327621, known as 360 Cullens Road Kincumber, NSW, subject to the conditions detailed in Attachment 1 of the report and having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act**

1979.

- 2 Council advise those who made written submissions of the Panel's decision, in accordance with the requirements for designated development.
- 3 That Council advise relevant external authorities of the Panel's decision.

Reasons for decision

The Panel considered the application, the written submissions, and the Council's assessment report. The Panel generally concurs with Council's assessment that the development application be approved.

The assessment report on pages 675-666 refers to the proposal being allowable as a result of consideration of the provisions of clauses 22(1), (2) and (5) of the Gosford City Council IDO 122. However, as outlined in the briefing to the Panel on 19 December 2024, this is not the case, and the recommendation for approval is based on consideration of IDO clauses 22(1), (2), (3) and (4), as well as subclause (5) that provides that the application must be considered as designated development. Based on this advice, the Panel supports the proposal.

Votes

The decision was unanimous

4.2 DA/1233/2024 - 13 Fairscene Crescent, Avoca Beach - Alterations and Additions

Site Inspected

Yes, via briefing meeting and by the Community Representative

Relevant Considerations

As per Council assessment report

Material Considered

- Documentation with application
- Council assessment report and Memo dated 18 December 2024

Council Recommendation

Approval, subject to conditions

Panel Decision

- 1 **The Central Coast Local Planning Panel is satisfied that the Applicants Clause 4.6 written request demonstrates that compliance with the Height of Buildings development standard is unreasonable and unnecessary**

in the circumstances, and that there are sufficient environmental planning grounds to justify the contravention of the development standard.

- 2 The Local Planning Panel grants consent to DA/1233/2024 at Lot 635 DP 16791 known as 13 Fairscene Crescent Avoca Beach NSW for alterations and additions to an existing dwelling house, having regard to the matters for consideration detailed in Section 4.15 of the Environmental Planning and Assessment Act 1979**

This is subject to the conditions detailed in Attachment 1 of the report, amended as follows:

- **Amend Condition 1.2 to refer to section 75 of the Environmental Planning and Assessment Regulation 2021 (and not Regulation 2000);**
- **Add conditions 6.2 and 6.3 to read:**

6.2 'Prior to the occupation or use of the building/structure, an application for an Occupation Certificate for the development must be submitted to and approved by the Principal Certifier. The Occupation Certificate application is to satisfy all of the requirements of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

6.3 'Complete the building in accordance with the relevant provisions and requirements of the National Construction Code Series.'

Reasons for decision

The Panel considered the application, and the Council's assessment report. The Panel generally concurs with Council's assessment that the development application be approved. There were no submissions made by neighbours. The variation to the height of building development standard is supported, as it is minor and results from the existing excavated site conditions.

Votes

The decision was unanimous

At this stage the meeting moved into Confidential Session. This action is taken in accordance with Section 10a of The Local Government Act, 1993.:-

CONFIDENTIAL ITEM

5.1 Land and Environment Court Proceedings Class 1 - Central Coast Council ats Parklands Kariong Development Pty Ltd - Case 2024/00172563 - Appeal of Refusal of DA/1760/2022 - 5 The Avenue Kariong

The reason for dealing with the report confidentially is that it contains advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

(D16540506)

- Panel Decision**
- 1 The Local Planning Panel notes the receipt of a Class 1 appeal in the Land and Environment Court of the refusal of Development Application DA/1760/2022, and the progress and management of the appeal to date.**
 - 2 In accordance with section 2.20(8) of the Environmental Planning and Assessment Act 1979, the Local Planning Panel delegates the ability to provide on-going legal instructions to Council's solicitor including external solicitors, in respect of the Class 1 proceedings to Council's Unit Manager, Development Assessment and any sub-delegate thereof.**

Votes The decision was unanimous

