



Report of Meeting

Sutherland Shire Local Planning Panel

Tuesday, 21 August 2018

6:00pm

Council Chambers

4-20 Eton Street, Sutherland

SUTHERLANDSHIRE

PANEL: Jason Perica (Chairperson), Charles Hill, Grant Christmas, Kurt Ingle

STAFF IN ATTENDANCE: Manager, Development Assessment and Certification (Simone Plummer) and Manager, Major Development Assessment (Mark Adamson)

APOLOGIES: There were no apologies for absence.

DISCLOSURES OF INTEREST

File Number: 2015/14239

There were no declarations of interest.

SSLPP007-18	Proposal:	ALTERATIONS AND ADDITIONS TO A DWELLING
	Property:	LOT 90 DP 5989 (NO. 215) PRINCE EDWARD PARK ROAD, WORONORA
	Applicant:	GLEN D ROBERTSON
	File Number:	DA18/0311

Speaking for the proposal was Glen Robertson (Owner)

PANEL DECISION:

THAT pursuant to the Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application No. 18/0311 for Alterations and additions to a dwelling at Lot 90 DP 5989, known as 215 Prince Edward Park Road, Woronora be approved subject to the conditions contained in Appendix "A" of the report to the Panel meeting of 21 August 2018.

REASON FOR THE DECISION:

The Panel generally agreed with the assessment of environmental considerations outlined within the Council staff report. While SEPP 55 (Remediation of Land) was not listed as an EPI in the staff report, the matter was considered and the proposal was suited to the site having regard to that SEPP, given the nature of the proposal.

The Panel had regard to the applicant's Clause 4.6 request regarding the maximum Building Height development standard within Clause 6.3 of Sutherland Shire LEP 2015. Given the non-compliance did not exceed the existing maximum height, and the relatively minor nature of the proposal, the Panel was satisfied regarding the proposed height. The Panel formed the view the proposal and the applicant's written request satisfactorily addressed the required matters within Clause 4.6 of the LEP, and it was considered compliance with the height standard was unnecessary in this case.

While some DCP non-compliances existed, the site characteristics and the setting of the site were such that the non-compliances were acceptable.

In terms of consideration of submissions and community views, it was noted no submissions were received.

VOTES: The decision was unanimous.

SSLPP008-18	Proposal:	ALTERATIONS AND ADDITIONS TO A DWELLING
	Property:	LOT 11 DP 21176 (NO. 92) MATSON CRESCENT, MIRANDA
	Applicant:	SOUTHERN ADDITIONS PTY LTD
	File Number:	DA18/0578

Nobody spoke for or against the proposal.

PANEL DECISION:

THAT pursuant to the Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application No.18/0578 for Alterations and additions to a dwelling at Lot 11 DP 21176, known as 92 Matson Crescent, Miranda be approved, subject to the conditions contained in Appendix "A" of the report to the Panel meeting of 21 August 2018.

REASON FOR THE DECISION:

The Panel generally agreed with the assessment of environmental considerations outlined within the Council staff report.

There was some debate and difference of view regarding the measurement of building height amongst the Panel (namely from where to measure "existing ground"), having regard to construction of the relevant definition in the LEP and prior cases in the Land and Environment Court (including the "Bettar v City of Sydney" and the "Stamford Property Services v City of Sydney" cases). Mr Perica preferred the approach adopted within these cases. The approach taken could affect the need for a request under Clause 4.6 of the LEP, related to the Building Height standard. Despite this, for the purposes of this matter, the majority of the Panel assumed a Clause 4.6 request is necessary and in that event, the Panel had regard to the applicant's Clause 4.6 request regarding the maximum Building Height development standard within Clause 6.3 of Sutherland Shire LEP 2015. Given the non-compliance was not evident externally and arose from the slope of the land and internal levels, together with the relatively minor nature of the proposal, the Panel was satisfied regarding the proposed height. The Panel formed the view the proposal and the applicant's written request satisfactorily addressed the required matters within Clause 4.6 of the LEP, and it was considered compliance with the height standard was unnecessary in this case.

While some DCP non-compliances exist, the site characteristics and the setting of the site were such that the non-compliances were acceptable. No works were proposed in the Foreshore Area and the proposed siting was appropriate.

In terms of consideration of submissions and community views, it was noted no submissions were received.

VOTES: The decision was unanimous.

SSLPP009-18	Proposal:	ALTERATIONS AND ADDITIONS TO EXISTING DWELLING
	Property:	LOT 1 DP 965053 (No. 31) TALOOMBI STREET, CRONULLA
	Applicant:	GLENN & ELEANOR SHEEHAN
	File Number:	DA18/0353

Speaking for the proposal was Lyndall Wynne (Planner) and Cameron Jones (Architect).

PANEL DECISION:

THAT pursuant to the Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application 18/0353 for Alterations and Additions to existing dwelling at Lot 1 DP 965053, known as 31 Taloombi Street, Cronulla be approved subject to the conditions contained in Appendix "A" of the report to the Panel meeting of 21 August 2018.

REASON FOR THE DECISION:

The Panel generally agreed with the assessment of environmental considerations outlined within the Council staff report.

However, the Panel was of the view that as the proposal did not alter the FSR or add any floorspace, and therefore, no request to contravene the FSR standard under Clause 4.6 of the LEP was necessary, relating to the maximum FSR within Clause 4.4.

The Panel had regard to the applicant's Clause 4.6 request regarding the minimum Landscaped Area development standard within Clause 6.14 of Sutherland Shire LEP 2015. Given the non-compliance is pre-existing and is not being made worse by the proposal (it is slightly improving), the Panel was satisfied regarding the proposed Landscaping. The Panel formed the view the proposal and the applicant's written request satisfactorily addressed required matters within Clause 4.6 of the LEP, and it was considered compliance with the Landscaping standard was unnecessary and unreasonable in this case.

While some DCP non-compliances existed, the site characteristics and the setting of the site were such that the non-compliances were acceptable. No works were proposed in the Foreshore Area and the siting was appropriate.

In terms of consideration of submissions and community views, it was noted no submissions were received.

VOTES: The decision was unanimous.

SSLPP010-18	Proposal:	ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING
	Property:	LOT 2 DP 833984 (NO. 501) WILLARONG ROAD, CARINGBAH SOUTH
	Applicant:	KERRY PATRICIA SULLIVAN & ALLAN PHILLIP SULLIVAN
	File Number:	DA18/0346

Speaking for the proposal was Lyndall Wynne (Planner) and Cameron Jones (Architect)

PANEL DECISION:

THAT pursuant to the Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application No. 18/0346 for Alterations and additions to an existing dwelling at Lot 2 DP 833984, known as 501 Willarong Road, Caringbah South be approved subject to the conditions contained in Appendix "A" of the report to the Panel meeting of 21 August 2018.

REASON FOR THE DECISION:

The Panel generally agreed with the assessment of environmental considerations outlined within the Council staff report.

The Panel had regard to the applicant's' Clause 4.6 request regarding the maximum Building Height development standard within Clause 6.3 of Sutherland Shire LEP 2015. Given the non-compliance was relatively minor and arose from the slope of the land and a desire to improve accessibility, with environmental reasons to support the variation, the Panel was satisfied regarding the proposed height. The Panel formed the view the proposal and the applicant's written request satisfactorily addressed required matters within Clause 4.6 of the LEP, and it was considered compliance with the height standard was unnecessary in this case.

While some DCP setback non-compliances exist, the site characteristics and the setting of the site were such that the non-compliances were acceptable.

In terms of consideration of submissions and community views, it was noted one submission was received. The Panel agreed with the staff assessment of the matters raised in that submission. A previous concern regarding view loss was withdrawn upon clarification and remaining matters were not of such substance to warrant refusal of the proposal. In terms of works surrounding the tree for a car space, the Panel was satisfied given a detailed condition of consent to manage and mitigate of works upon the tree.

VOTES: The decision was unanimous.

SSLPP011-18	Proposal:	SECTION 4.56 MODIFICATION OF DA15/0058 - INTERNAL RECONFIGURATION, RELOCATE GARAGES, INCREASE ALFRESCO AREA, ADDITIONAL BEDROOMS AND BALCONY TO FIRST FLOOR, INCREASE ROOF HEIGHTS AND AMEND FRONT FACADE
	Property:	LOT1 DP 602780, (NO. 6) BARKER CLOSE, ILLAWONG
	Applicant:	CHAPMAN PLANNING PTY LTD
	File Number:	MA17/0467

Speaking for the proposal was Jason Lambropoulos (Planner)

Speaking against the proposal was Rod Green (Objector) and Ian Baker (Objector)

PANEL DECISION:

THAT:

- (A) The Panel was of the view the application did not fall within the jurisdiction of the Panel, given the terms of the Ministerial Direction dated 23 February 2018. In this regard, Council staff are to provide legal advice to the Panel about its power to determine the matter, and the matter be deferred pending this advice.
- (B) Despite "A" above, the Panel considered the merits of the application and was favourably predisposed to approve the application, if such power exists. Despite this, a number of modifications to the proposal were warranted, given the discussions at the meeting and agreement by the applicant/owner to make changes to further address issues raised by neighbours, including:
- 1) A fixed privacy screen to the east of the rear "Alresco" terrace to the rear of "Unit 1";
 - 2) A highlight window in the eastern elevation of the first floor to "Bedroom 2", similar to "Bedroom 5";
 - 3) Reconciliation and alignment of the requirements of Conditions 3 and 17 to ensure the garbage areas for the units are brought close to the building setback to the street;
 - 4) Retention of the eastern side fence to retain the current colourbond fence; and
 - 5) Additional street tree planting in front of the site, given the loss of street trees on site, to Council's specifications and satisfaction.
- (C) Following advice regarding "A" above and the matters in "B" above, if the matter is able to be determined by the Panel, that occur subsequently by electronic means, as soon as is practicable.

REASON FOR THE DECISION:

The reasons are given in the decision above.

The matters the Panel can determine are prescribed by a Ministerial Direction and the proposal did not fall within those prescribed matters. However, there may be a legal reason which mandates the Panel

is the relevant consent authority, to which the Panel is unaware.

The Panel was favourably predisposed to grant approval, if it has the requisite powers, particularly having regard to the substantive compliance of the proposal with key LEP and DCP standards and guidelines applicable to the site and proposal. However, there were a number of changes and suggestions which the applicant was willing to make, to further manage, mitigate and address concerns raised by neighbours relating to privacy, fencing, trees and waste. These matters would benefit from further liaison between Council staff and the applicant. Given the circumstances, it was appropriate for the matter to be determined electronically, if the Panel is able to determine the matter, otherwise by Council staff.

VOTES: The decision was unanimous.

SSLPP012-18	Proposal:	ALTERATIONS AND ADDITIONS TO A DWELLING TO CREATE A DUAL OCCUPANCY
	Property:	LOT 10 DP6185 (NO. 69) THE ESPLANADE, CRONULLA
	Applicant:	J W SMITH DESIGN PTY LTD
	File Number:	DA17/1463

Speaking for the proposal was Linley Love (Planner), James Smith (Architect) and Matt Howlin (Owner)

PANEL DECISION:

THAT:

Pursuant to the Sections 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application No. 17/1463 for alterations and additions to a dwelling to create a dual occupancy at Lot 10 DP 6185, known as 69 The Esplanade, Cronulla be approved, subject to the conditions contained in Appendix "A" of the Council staff report to the Local Planning Panel meeting of 21 August 2018.

REASON FOR THE DECISION:

The Panel generally agreed with the assessment of environmental considerations outlined within the Council staff report.

The Panel had regard to the applicant's' Clause 4.6 request regarding the limitation on development within the Foreshore Area development standard within Clause 6.9 of Sutherland Shire LEP 2015. Given the non-compliance was relatively minor, occurred for an open terrace area linked to the ground floor, continued an existing deck area and was consistent with the pattern and overall alignment of surrounding and adjoining development, the Panel was satisfied regarding the proposal relative to the Foreshore Area. The Panel formed the view the proposal and the applicant's written request satisfactorily addressed required matters within Clause 4.6 of the LEP, and it was considered compliance with the Foreshore Area standard was unnecessary in this case.

While some DCP non-compliances existed, the site characteristics and the setting of the site were such that the non-compliances were acceptable. It was noted the proposal complied with key standards relating to height and FSR/bulk within the LEP.

In terms of consideration of submissions and community views, it was noted four submissions were received. The Panel agreed with the staff assessment of the matters raised in those submissions. The Panel's deliberations of view impacts were assisted by viewing the two most affected and proximate properties. The view impacts were considered to reasonably achieve view sharing principles (having regard to the "Tenacity" principles) and the view impacts were not unreasonable. Other issues and concerns raised were not of such significance to warrant refusal of the application.

VOTES: The decision was unanimous.

SSLPP013-18 ELECTRONIC DETERMINATION PROCESS – LOCAL PLANNING PANEL
File Number: A5369931

PANEL DECISION:

THAT The Sutherland Shire Local Planning Panel (LPP) endorse the following tests for whether an item is suitable for e-Determination by the LPP:

- a) The trigger for referral to the Panel is a pre-existing non-compliance, and
- b) There have been no objections received, and
- c) The officer recommends support for the application, and
- d) The decision by the Panel is unanimous; and
- e) The non-compliance is not made worse, or the application is very minor in nature/scale.

REASON FOR THE DECISION:

To allow the efficient administration of the Panel, and associated applications referred to it, for relatively minor and uncontentious proposals.

VOTES: The decision was unanimous.