



# **Report of Meeting**

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## **Sutherland Shire Local Planning Panel**

**Tuesday, 18 September 2018**

**6:00pm**

**Council Chambers**

**Level 2, Administration Building**

**4-20 Eton Street, Sutherland**

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**SUTHERLANDSHIRE**

**PANEL:** Charles Hill (Chair), Julie Savet Ward, Jan Murrell and Peter Flynn

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

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**DISCLOSURES OF INTEREST**

**File Number: 2015/14239**

Julie Savet Ward declared an interest and excused herself from all discussions and deliberations in relation to Item 28 in respect to the Section 82A review of 12 Charles Place Jannali, as she was on the original Panel meeting that refused the previous application.

Jan Murrell acknowledged that she knew Mr Ludvik professionally, and who was speaking on behalf of the proposed development at 12 Charles Place Jannali, but indicated that she had had no contact or discussed this matter with Mr Ludvik.

Jan also acknowledged that she was known to Mr. Boulton, an objector to the proposed development at 47 Ewos Parade Cronulla, but had not had contact with or discussed with him, the subject application.

The Chairman accepted the statement by Ms Murrell.

The Chairman also acknowledged that he was known to Mr Ludvik and Erica Marshall, professionally, speaking on behalf of the proposed development at 12 Charles Place Jannali, but had had no contact with, or discussed the proposed development with those persons.

The Chairman also acknowledged that he was known to Kristy Hodgkinson, speaking on behalf of the proposed development at 696 Port Hacking Road, but had had no contact with, or discussed the proposed development with that person.

<b>SSLPP024-18</b>	<b>Proposal:</b>	<b>ALTERATIONS AND ADDITIONS TO EXISTING DWELLING</b>
	<b>Property:</b>	<b>LOTS 773 DP 243567 (NO. 6) BALANDRA PLACE, KAREELA</b>
	<b>Applicant:</b>	<b>R M DESIGN AND CONSULTING</b>
	<b>File Number:</b>	<b>DA18/0572</b>

No-one registered to speak.

**PANEL DECISION:**

THAT:

1. Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to Clause 6.14 Landscaped Area satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the contravention of landscaped ratio development standard be supported.
2. Pursuant to the provisions of 4.16 of the Environmental Planning and Assessment Act 1979, Development Application No. 18/0572 for alterations and additions to existing dwelling at Lot 773 DP 243567 (No. 6) Balandra Place, Kareela be approved, subject to the conditions contained in Appendix "A" of Council's assessment report.

**REASON FOR THE DECISION:**

The Panel notes that subject land is located within Zone E4 Environmental Living pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015.

The proposed development, being alterations and additions to an existing dwelling, is a permissible land use within the zone with development consent.

The Panel also notes that no submissions were received, as a result of Council's notification policy.

The proposal includes a variation to Clause 6.14 Landscaped Area, of the Sutherland Local Environmental Plan 2015. This variation has been considered by the Panel, and is considered acceptable subject to design changes and/or conditions of consent, recommended by the Council's assessment report

In respect to the non-compliance to the development standard, the Panel requires that Condition 7 be amended to plant one tree on the subject site, and this is to be a Eucalypt, endemic to the area, in the front side boundary setback.

As indicated by the Council assessment report, the Panel noted that the rear part of the site, beyond

the swimming pool, is inaccessible, and of steep topography, and that Condition 7 also requires the applicant/owner to arrange a deed of agreement with Council for four trees for offset planting.

The Panel is in agreement with the imposition of this condition.

Accordingly the Panel recommends that the provisions of Clause 4.6 be invoked and that the landscaped area development standard be contravened to 26%, in respect to the subject application.

The application has been assessed having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

In that regard the Panel is of the view that the application will not result in any significant impact on the environment or the amenity of nearby residents.

Accordingly, the Panel considers that Development Application No. 18/0572 may be supported for the reasons outlined in the Council's assessment report.

**VOTES:** The decision was unanimous.

<b>SSLPP025-18</b>	<b>Proposal:</b>	<b>INTERNAL MODIFICATION TO EXISTING BUILDING AND USE OF THE PREMISES AS A PLACE OF PUBLIC WORSHIP</b>
	<b>Property:</b>	<b>LOT 23 SEC E DP8529 (NO. 63) PARRAWEENA ROAD, CARINGBAH</b>
	<b>Applicant:</b>	<b>AVENUE STUDIOS</b>
	<b>File Number:</b>	<b>DA18/0100</b>

Speaking for the proposal was Michael Vine.

#### **PANEL DECISION:**

THAT:Development Application No.18/0100 for internal modifications to existing building and use of the premises as a Place of Public Worship at Lot 23 Sec E DP 8529 (No. 63) Parraweena Road, Caringbah, be deferred pending receipt of a Fire Report and Building Certificate, and completion of any requirements arising from that documentation, to ensure the premises comply with the requirements as a place of public worship.

#### **REASON FOR THE DECISION:**

The Panel notes that the subject land is located within Zone IN1 – General Industrial pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015.

The proposed development, being for the use as a Place of Public Worship, is a permissible land use within the zone with development consent.

In response to public exhibition, no submissions were received, however the Panel notes that Council later received a complaint regarding unauthorised church service/s being conducted on the site and associated amenity impacts. Conditions are proposed to address the issues raised in the complaint.

The Panel noted in particular that the subject application proposes a fit out and modifications internally, however these works have already been substantially undertaken.

In that regard, the Council Officer's recommendation is that this consent be issued as a 'Deferred Commencement' consent for a change of use only, and that Condition 1 requires a Building Certificate be obtained for all completed works before the development consent becomes operational.

The Panel however disagreed with the Deferred Commencement approach, as it considered that the Applicant needed to secure all the necessary approvals for the alleged unauthorised works, including a Fire Report and Building Certification, and complete any works arising.

Notwithstanding the above, the Panel noted that the submitted Traffic Impact and Parking Assessment concludes that the proposed development will not result in significant impact on traffic in the local

network and that the development achieves the required parking supply both on and off site (particularly on the Sunday). Whilst there remains a heavy reliance for on-street parking, on the Sunday, the hours of operation and proposed peak period for the Place of Public Worship is contained to a period of between 8.45am to 11.45am.

A condition of consent however has been imposed requiring 8 spaces to be available in accordance with the approved plan, as being sufficient for the day to day operations of the Place of Worship Monday to Saturday.

The Panel also notes that there was no ability for any additional spaces on site other than the spaces identified and conditioned.

Notwithstanding the above, the Community representative did not support the application, because of the heavy reliance on street parking to satisfy the parking needs, resulting in adverse amenity impacts in neighbouring streets, as well as creating potential issue with extra on street vehicular manoeuvrability, and pedestrian movements.

The Panel also notes that Church Services will be limited to 2 services on each Sunday.

However the applicant has indicated that whilst core church services and activity will be completed at the site by 12 midday, additional community based activities are sought until 5.30pm on a Sunday.

Given the lack of information provided in relation to the afternoon activities, Council staff proposed that those activities be restricted to persons to 40 persons only between the hours 12pm to 5.30pm.

The Panel agreed with this requirement.

The Panel also noted that the church building will be used for administrative purposes associated with the church and ancillary activities between the hours of 9.00am and 5.30pm Monday to Saturday.

In that regard the Council staff proposed a condition restricting the number of persons at that time.

The Panel also agreed with that restriction.

The Panel also noted that Amplified music will be played at the premises and that noise will be contained within the main auditorium. Self-closing mechanisms will be applied to each of the 2 doors that will enclose this space from any outside noise receivers. The 2 church services will run for a maximum of 1 hour each and amplified music will be limited to 30 mins during each service.

The Panel agreed with the Council's assessment report to impose a condition of consent to restrict the amplification of music to 30 minutes for each Sunday service to limit amenity impacts within the locality.

The application has been assessed by the Panel having regard to the Heads of Consideration under

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Section 4.15 of the Environmental Planning and Assessment Act 1979.

The Panel considered that the application is unlikely to result in any significant impact on the environment or the amenity of nearby residents, however the shortfall in car parking provision and a heavy reliance on the local street network for Sunday Church Services remains and a written complaint received at this stage does not support the issuing of a fully operational consent without opportunity for further review by Council.

However, and as indicated above, although the Panel is of the view that Development Application No. 18/0100 may be supported for the reasons outlined in the Council's assessment report, it is of the view that the proposed use cannot be approved until the Applicant has satisfied all the necessary requirements arising from the Fire Report and Building Certification.

**VOTES:** The decision was 3 in favour and 1 against, as the Community representative did not support the application for the reasons referred above.

<b>SSLPP026-18</b>	<b>Proposal:</b>	<b>CONSTRUCTION OF A NEW DWELLING WITH ASSOCIATED GARAGE AND LANDSCAPING</b>
	<b>Property:</b>	<b>LOT 3 DP 707687 (NO. 167) PENINSULAR ROAD, GRAYS POINT</b>
	<b>Applicant:</b>	<b>D C FALCONER, C G FALCONER</b>
	<b>File Number:</b>	<b>DA17/0500</b>

Speaking for the proposal was Erin Owens.

Speaking against the proposal was Natalie Marsic and Victor Preston

#### **PANEL DECISION:**

THAT:

1. Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the contravention of the limited development on foreshore area development standard satisfies the relevant provisions of Clause 4.6 and is supported. It is recommended that the provisions of Clause 4.6 be invoked and that the limited development on foreshore area development standard under Clause 6.9 of SSLEP 2015 be varied in this instance.
2. Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application No. 17/0500 for construction of a new dwelling and an associated garage and landscaping at Lot 3 DP 707687, (No. 167) Peninsular Road, Grays Point is determined by the granting of a deferred commencement development consent subject to the conditions contained in Appendix "A", to Council's assessment report, as amended by the addition of the following conditions:
  1. (ii) Provision of an additional advance planting of the same species, to replace the loss of tree T 18.
  - (iv) Provision of planting to form a hedge no higher than 3 metres along the eastern boundary of the site.
  - v) Provision of planting to soften the built form along the southern boundary of the site.

**REASON FOR THE DECISION:**

The Panel notes that the land is located within Zone E3-Environmental Management pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015.

The proposed development is a permissible land use within the zone with development consent.

In response to public re-exhibition of the amended plan 3 submissions were received. The matters raised in these submissions have been considered by the Panel, and the Panel noted that where found by the Council's assessment report to have substance, have been addressed by way of conditions of consent.

Issues raised by the objectors included, but were not necessarily limited to, location of the proposed dwelling forward of the Foreshore Building Line, privacy, loss of trees, loss of views' and proximity of garage to the adjoining dwelling.

The Applicants indicated that they had endeavoured to strike a balance between the need to provide for a dwelling on the site, having regard to its topographical constraints and the need to protect, in so far as possible, the existing vegetation.

In that regard the Panel noted that the subject land was an approved allotment on which a dwelling was permissible with Council consent. It also noted that although the dwelling encroached onto the Foreshore Building Line, so does the adjoining property at 161 Peninsular Road, and a number of other dwellings in the local area.

The Panel did not consider that a different design would achieve an improved outcome.

Concern was also expressed in relation to the preservation of tree T18 alongside the existing ROW, adjoining the proposed driveway. However the Panel agreed that given the constraints of the site, and the need to locate the garage in the location proposed, and having regard to accommodating appropriate ingress and egress from the site, removal of that tree was unavoidable.

The Panel however proposed that an additional advanced tree of the same species be proposed to replace the loss of the subject tree.

The Panel also considered the issue of privacy and was satisfied in that the design of the proposed dwelling had addressed that issue, subject to some additional landscaping. The Panel proposed an appropriate hedge or similar planting no higher than 3 metres, along the eastern boundary of the site and the provision of appropriate planting to soften the built form along the southern boundary of the site.

The Panel was also satisfied with the Council's assessment report in relation to potential view loss.

The proposal includes a variation to the foreshore area non-numerical development standard. This

variation has been reviewed by the Panel, and was considered to be acceptable, subject to conditions of consent requiring reinstatement of the foreshore and inter-tidal area to a natural state, to ensure the sustainability of the mangroves.

The Panel noted in particular that the application was referred to Council's Tree Management Officer (TMO), who provided comments on the original plans and concluded that if the application were to be approved, the removal of the trees on site was acceptable, given the unusual shape and width of the site.

Of particular importance to the TMO, was Tree 7, the *Euroschinus falcatus* – Ribbonwood, located centrally within the site and which had been incorrectly identified in the submitted Arborist report.

The Panel noted that the tree is a locally significant species and is considered rare.

In response to the submission of a revised landscape plan, the TMO concluded that the proposed planting of two Ribbonwoods was an appropriate measure, and that it was reasonable to allow removal of the Ribbonwood tree and other trees.

In that regard the Panel also noted that the proposed rehabilitation of the foreshore area and replanting was considered acceptable, and as such the Panel is satisfied with the landscape rehabilitation plan (Drawing no. MBD\_167\_12 Issue A dated 2.03.18).

However the Panel also noted that, later amendments to the landscape plan proposed prohibited works within the foreshore area and the final version (Drawing no. MBD\_167\_12 Issue B dated 19/7/2018) deleted most of the works.

Notwithstanding the above, the Panel notes that some landscaping works remain on this plan, being the fill and proposed lawn within the intertidal area, and the Panel agree with the Council's assessment that this is not supported.

The application has been assessed by the Panel having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

The Panel considers that the application, subject to conditions, will not result in any significant impact on the environment or the amenity of nearby residents.

Accordingly the Panel recommends that Development Application No. 17/0500 be supported for the reasons outlined in the Council's assessment report, and the further conditions imposed.

**VOTES:** The decision was unanimous.

<b>SSLPP027-18</b>	<b>Proposal:</b>	<b>DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING CONTAINING 19 UNITS AND WITH BASEMENT PARKING</b>
	<b>Property:</b>	<b>LOTS 2-16 S/P 511, SP 511 (NO. 47) EWOS PARADE, CRONULLA</b>
	<b>Applicant:</b>	<b>NOVUS PROPERTY INVESTMENTS EWOS PARADE PTY LTD</b>
	<b>File Number:</b>	<b>DA17/1503</b>

Speaking for the proposal were Lachlan Simms and Peter Couvaras.

Speaking against the proposal was Mark Boulton.

#### **PANEL DECISION:**

THAT:

1. Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to building height satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the 16m development standard be varied to 16.9m (4.6% variation), in respect to this application.
2. Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application No.17/1503 for Demolition of existing structures and construction of a residential flat building containing 19 units and with basement parking at Lots 2–16 S/P 511, (No. 47) Ewos Parade, Cronulla is determined by the granting of development consent subject to the conditions, as outlined in the Council's assessment report, subject to additional condition as follows:
  - 2 (xiii) Modification of the design to comply with the required side setback for the north-west corner of units on levels 2, 3, and 4.

#### **REASON FOR THE DECISION:**

The Panel notes that the subject land is located within Zone R4 – High Density Residential pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015.

The proposed development, being a residential flat building, is a permissible land use within the zone with development consent.

The application was placed on public exhibition and submissions were received from 3 households.

The Panel notes that the matters raised in these submissions have been addressed in the Council's assessment report, including but not necessarily limited to, isolation of the southern adjoining lot, setbacks and parking.

The proposal includes a written Section 4.6 variation in relation to building height.

This variation has been addressed by the Panel, and is considered acceptable subject to design changes and/or conditions of consent, recommended by the Council's assessment report

Other variations identified in the Council's assessment report including setbacks and overshadowing have been discussed and are considered acceptable.

Notwithstanding the above however, concern was expressed in relation to the encroachment of the proposed building onto northern and southern side setbacks, and potential loss of view corridor along those elevations of the proposed building, from any future development of the adjoining site to the west.

Whilst the Panel considered that the southern encroachment was acceptable, it formed the view that modification of the design to comply with the required 6 metre side setback for the north-west corner of units at levels 2, 3, and 4 was necessary to retain the view corridor from any future development of the adjoining site, at the rear of the subject land.

Accordingly an additional condition is proposed by the Panel seeking modification of the subject development as proposed.

The Panel also notes that the proposal is affected by SEPP 65. In that regard Sutherland Shire Council engages its Design Review Forum (DRF) to guide development to ensure the design quality is achieved in accordance with SEPP 65.

As a result, the DRF identified a number of issues which resulted in revised plans being submitted, addressing the concerns raised by the DRF.

The Panel notes that the proposal is also subject to the Apartment Design Guidelines (ADG), and that the proposed design for the development is non-compliant with a number of requirements of the ADG.

The Council's assessment report has addressed these inconsistencies, and which the Panel supports.

The proposal was also assessed by the Council's Heritage Architect, as the rear boundary of the site adjoins 50 Parramatta Street, Cronulla on which is located a house which is listed in schedule 5 of SSLEP 2015.

The Panel notes that Council's Heritage Architect considered the proposal and advised that the scale

of the development is not sympathetic to the heritage item.

However the Panel agrees with Council's assessment report that as there will be a 26 metre separation between the cottage and the building, the best outcome for the heritage item is to create a landscape buffer at the rear boundary of the site.

In relation to the issue of the potential isolation of future development sites, the Panel agrees with Council's assessment of this issue.

Accordingly, and having regard to the merits of the case, the Panel supports approval of the subject application, as No.53 will not become sterilised or isolated as there would be opportunity to amalgamate with the site to its south at No.55.

The Panel notes that the proposed development is consistent with the objectives of the zone, and agrees with the Council's assessment report that, the building form and new landscaping once established will sit comfortably within the street and is of the desired future character for the local area.

The application has been assessed by the Panel having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

The Panel is of the view that the application will not result in any significant impact on the environment or the amenity of nearby residents, and as such supports Development Application No. 17/1503 for the reasons outlined in the Council's assessment report, and the further conditions imposed.

**VOTES:** The decision was unanimous.

<b>SSLPP028-18</b>	<b>Proposal:</b>	<b>DIVISION 8.2 REVIEW OF DETERMINATION (DEMOLITION OF EXISTING DWELLING HOUSE AND OUTBUILDINGS AND CONSTRUCTION OF A BOARDING HOUSE)</b>
	<b>Property:</b>	<b>LOT 9 DP 31183 (NO. 12) CHARLES PLACE, JANNALI</b>
	<b>Applicant:</b>	<b>YOUSEF &amp; NATALIE DAGHER</b>
	<b>File Number:</b>	<b>DA17/0668 / RA18/0003</b>

Speaking for the proposal were Erica Marshall, Andy Ludvik, Neil Kennan, and Joseph Dagher.

Speaking against the proposal were Bryan Wild and Angela Thomas, Dianne Hamilton and Stephen Davies

Julie Savet Ward did not partake in any discussions or deliberations in relation to the proposed review of the subject application.

#### **PANEL DECISION:**

THAT:

1. Pursuant to Division 8.2 of the Environmental Planning and Assessment Act, 1979, Review Application No. 18/0002 be supported.
2. Pursuant to Division 8.2 of the Environmental Planning and Assessment Act, 1979, Council's Refusal Notice of Determination dated 20 March 2018 of Development Application No. 17/0668 for demolition of existing dwelling house and outbuildings and construction of a boarding house at Lot 9 DP 31183 12 Charles Place, Jannali be changed.
- 3 Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application No. 17/0668 for a Demolition of existing dwelling house and outbuildings and construction of a boarding house at Lot 9 DP 31183 (No. 12) Charles Place, Jannali be approved, subject to the conditions in appendix 'A', in Council's assessment report, and as amended by the addition of the following conditions:

9(viii) Stacker parking facility and car parking design, to comply with the relevant Australian standard.

12 A (vii) The existing Tuckeroo Tree located within the front setback to be protected and retained.

**REASON FOR THE DECISION:**

The Panel notes that the proposed amended development is for demolition of the existing dwelling house and outbuildings and construction of a 7 bedroom boarding house at Lot 9 DP 31183 12 Charles Place, Jannali.

The subject land is located within Zone R2 – Low Density Residential pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015.

The proposed development, being a boarding house, is a permissible land use within the zone with development consent.

The Panel also notes that in response to public exhibition, 45 submissions were received, and that certain matters raised in these submissions have been dealt with by design changes or conditions of consent where appropriate.

A particular concern raised by the community related to the use of the stacker parking system and the design of the car parking area generally.

In that regard the Panel proposed an additional condition that requires the stacker parking facility and car parking area, to comply with the relevant Australian car parking standards.

The Panel also proposed an additional condition ensuring protection of the existing Tuckeroo tree located in the front setback of the proposed development.

According to Council's assessment report, the applicant lodged revised plans on 9 and 16 August 2018.

The Panel has noted that in accordance with the requirements of SSDCP2015 these plans were not publicly exhibited, as the changes being sought did not intensify or change the external impact of the development.

As a result of the submissions received however, and the issues that were raised, Council held an information session, and the application has now been referred to the Sutherland Shire Local Planning Panel (SSLPP) for consideration.

In that regard the Panel notes that the boarding house has now been reduced from 10 boarding rooms to 7, to accommodate 7 lodgers maximum, and that the Plan of Management addresses management of the boarding house to minimise potential social impacts from the use.

The Panel also notes that Council's assessment report proposes further conditions relating to the management of the building house in order to minimise the impacts on the amenity currently enjoyed by residents in Charles Place and to the rear.

Council's assessment report also addresses the relevant provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP), noting in particular that there are certain standards on which Council is unable to refuse such applications.

The Panel agrees with Council's assessment.

The Panel is of the view that the building presents similar to a two storey dwelling house, and therefore will fit comfortably within the street, and considers that the design is generally consistent with the character of the local area.

The Panel is also in agreement with Council's assessment report, and acknowledges that with the increased cost of housing and rent, there is a need for affordable housing in the area.

In that regard the Panel also agrees with the Council's assessment report, that the proposal will provide an option aimed at low to moderate income households who experience housing stress in the private rental market and therefore is consistent with the aim of the AHSEPP, which is to encourage new generation boarding houses in local areas.

The application was considered by Council's Community Unit who confirmed that there was a demand for affordable housing in the Sutherland Shire. The Community Unit however sought additional information to clarify who was going to occupy the boarding house and management of the boarding house. The Panel was satisfied that all relevant information had been provided to the Community Unit.

The Panel also notes that the Council's assessment report has also addressed the relevant provisions of Chapter 35 of SSDCP 2015 to ensure that uses that are not covered by specific chapters in the DCP comply with the general development controls that set building form which apply to predominant uses.

The Panel is satisfied with this assessment.

The application has been assessed by the Panel, having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, including State Environmental Planning Policy (Affordable Rental Housing) 2009 (ARH SEPP), together with the provisions of Sutherland Shire Local Environmental Plan and all relevant Council DCPs, Codes and Policies.

Following detailed assessment by the Panel, it is considered that the Section 82A Review Application No. 18/0003 of Development Application No. 17/0668 can be supported for the reasons outlined in the Council's assessment report, in particular having regard to the recommended conditions, the reduced number of rooms, and the detailed Plan of Management to maintain residential amenity.

**VOTES:** The decision was 3 in favour. (Julie Savet Ward did not participate in this determination).

<b>SSLPP029-18</b>	<b>Proposal:</b>	<b>DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A MULTI DWELLING HOUSING DEVELOPMENT CONTAINING 7 DWELLINGS</b>
	<b>Property:</b>	<b>LOT 1 DP 603167, LOT 2 DP 603167 (NO's 5 AND 5A) GANNONS ROAD, CARINGBAH</b>
	<b>Applicant:</b>	<b>JUSTINE LOUISE LEA</b>
	<b>File Number:</b>	<b>DA17/0218</b>

Speaking for the proposal were Robert Chapman-Malec, Lyndall Wynne, and Justine McDermott.

Speaking against the proposal were, Cherie Feher, Michelle Evans, Ray Greenup, Ross Howie on behalf of Councillor Carol Provan, and Councillor Michael Forshaw.

#### **PANEL DECISION:**

THAT: Development Application No. 17/0218 for demolition of existing structures and construction of a multi dwelling housing development containing 7 dwellings at Lot 1 DP 603167, Lot 2 DP 603167 (No's 5 & 5A) Gannons Road, Caringbah, be deferred for 4 months to allow the Applicants to prepare amended plans addressing the issues raised by the Panel below.

If amended Plans are not submitted within the time frame referred to above, it is the intention of the Panel to refuse the subject application by eDetermination.

#### **REASON FOR THE DECISION:**

The subject land is located within R2 Low Density Residential pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015.

The proposed multi dwelling housing development is a permissible land use within the zone with development consent.

The Panel notes that the original application and revised plans were advertised in accordance with the provisions of Chapter 42 of Sutherland Shire Development Control Plan 2015 (SSDCP 2015). A list of the all submissions, including dates of those submissions received and the issues raised is provided in the table to Council's assessment report.

In that regard the Panel also notes that the subject application has a long history, resulting in a series of revised plans in an endeavour to address concerns raised by the community, and those by Council staff.

The main concerns expressed to the Panel by the community included, but was not necessarily limited to; the Applicants failure to comply with the 60/40 rule related to the location of bulk and scale of the

development within the site, privacy, the design response to the issue of flooding resulting in the proposed building raised 1.4 metres at the rear, traffic and adequacy of parking, protection of existing vegetation, particularly on the north east boundary of the site, loss of acoustic and visual privacy from the proposed driveway, and overshadowing.

The Panel notes that the proposal does not comply with the development control that restricts buildings to single storey in the rear 40% of the site, although, and as indicated by the Council's assessment report, the development has been designed to comply with density and built form controls that establish the development potential for the site.

The application was referred to Council's Design Review Forum (DRF), resulting in revised plans being provided to address some of the issues raised by DRF.

The Panel also notes that Council's Architect considered the revised plans to address the DRF comments concluding that:

- The window configuration is a reasonable strategy to prevent overlooking. However, variation in window orientation and size is required on the ground floor to break up the monotonous northern side elevation.*
- Given the topography of the site and raised floor levels it is impractical to provide a direct path of travel from the street which is usually required to provide access to the adaptable dwelling.*
- Retaining walls could be rationalised forward of the building line to provide more usable open space and a better interface with the street.*
- Shadowing diagrams and 3D modelling are accurate.*
- Further development should be undertaken to provide internal access between all garages to the dwellings.*

As a result of these comments the applicant provided revised plans and additional information including improvements to the windows.

However the Panel has formed the view that insufficient consideration has been given in the design of the proposed development with regard to the constraints of the site, in particular its narrow frontage, and elongated nature, the effects of flooding and its contextual relationship with adjoining development.

Given these constraints of the site, the Panel considers that the Applicant cannot expect to maximise development of the site, and a more sensitive design is required, as opposed to numerical compliance.

In that regard whilst it is not the intention of the Panel to attempt to provide advice as to how the site might be designed, it is of the view that regard should be had for a more skilful design or the 60/40

rule. Notwithstanding the rule was introduced in August 2017 as an amendment to Council's DCP (not as an amendment to the LEP as claimed), after the subject application was submitted. Any redesign must address the likely adverse impacts on the amenity of the adjoining properties.

The Panel agreed that these suggestions were considered preferable to the current proposal.

Accordingly the application has been assessed by the Panel having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

In that regard the Panel is of the view that the application, assessed on its merits, will result in significant impact on the amenity of nearby residents, and as such considers that Development Application No. 17/0218 cannot be supported in its current form for the reasons outlined in this report. The Panel however, considers that the Applicants should be afforded the opportunity to submit amended plans within four months with a more skilful design to significantly minimise adverse impacts on adjoining properties.

**VOTES:** The decision was unanimous.

<b>SSLPP030-18</b>	<b>Proposal:</b>	<b>DIVISION 8.2 REVIEW OF DETERMINATION (TORRENS TITLE SUBDIVISION OF ONE LOT INTO THREE, DEMOLITION OF EXISTING DWELLING, DRIVEWAY AND FOOTPATH CONSTRUCTION)</b>
	<b>Property:</b>	<b>LOT B DP407493 (696) PORT HACKING ROAD, DOLANS BAY</b>
	<b>Applicant:</b>	<b>RICHARD THOMAS WHITFIELD</b>
	<b>File Number:</b>	<b>DA17/0992 and RA18/0005</b>

Speaking for the proposal were Kristy Hodgkinson and Peter Couvaras.

Speaking against the proposal were Jeni Wilcock (speaking on behalf of Susan Giovenco) and David Isaacs.

#### **PANEL DECISION:**

THAT:

Pursuant to Division 8.2 of the Environmental Planning and Assessment Act, 1979, Council's Refusal Notice of Determination dated 24 April 2018 of Development Application No. 17/0992 for Torrens title subdivision of one lot into three, demolition of the existing structures, driveway and footpath construction at (No. 696) Port Hacking Road, Dolans Bay be reaffirmed for the following reasons:

1. The application is considered unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that it is inconsistent with the objectives of the E4 Environmental Living Zone pursuant to the Sutherland Shire Local Environmental plan 2015.
2. The application is considered unacceptable pursuant to the provisions of Clause 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that it is inconsistent with the objectives of the minimum lot size set out in Clause 4.1(1)(b) and (c) within Sutherland Shire local Environmental Plan 2015.
3. Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the development standard for lot width is not considered to be well founded as the applicant has not adequately demonstrated why, in the circumstances of the case of this application, compliance with this development standard is either unreasonable or unnecessary or that a better environmental outcome is likely.

4. The application is unacceptable having regard to the proposed driveway and pedestrian access, retaining walls and waterfront access in that insufficient information has been provided with which to adequately assess the potential impacts of the application.

### **REASONS FOR PANEL DECISION**

The proposed development is for Torrens title subdivision of 1 lot into 3, demolition of the existing dwelling and detached garage, as well as driveway and footpath construction at Lot B DP 407493, 696 Port Hacking Road, Dolans Bay.

The subject land is located within Zone E4 Environmental Living pursuant to SSLEP 2015.

The proposed development, being a subdivision, is a permissible within the zone with development consent.

The Panel notes that this application was the subject of a previous refusal by the then Sutherland Local Planning Panel, for reasons that are detailed in the Council's assessment report.

The Panel notes that Council, has on a number of occasions, suggested to the Applicant that a two lot subdivision would be more appropriate development for the site, particularly having regard to the unique shape and size of the site located within the environmental zone, and its contextual relationship with the surrounding subdivision pattern.

The Panel also notes that the application was advertised in accordance with the provisions of Chapter 42 of Sutherland Shire Development Control Plan 2015 (SSDCP 2015), and that Council notified 8 adjoining or affected owners of the proposal, resulting in the receipt of 5 submissions.

The matters raised in these submissions have been addressed by Council in its assessment report, and as the application is recommended for refusal, the Panel agrees that the objections to the proposed development, together with the submissions made to the Panel, have been satisfied, as a result of the refusal of the subject application.

The Panel notes that the proposal included a variation to the minimum lot width development standard, and which was subsequently amended on behalf of the Applicant, in a document dated 14 September 2018.

This variation and its amendment, has been reviewed by the Panel. The Panel agrees with Council's assessment that the shortfall in this instance contributes to a loss of the environmental values for which the site has been zoned.

Accordingly the Panel does not support the submitted clause 4.6 request, as it considers that there is insufficient area and width of lots to plant replacement canopy trees consistent with the zone

objectives.

The Panel notes that the applicant has submitted indicative building footprints for each lot. The footprints include the associated landscaping, vehicle servicing and recreation requirements, drainage and parking etc.

An assessment by the Panel of the indicative plans indicate that a likely residential building could be accommodated on each of the lots in the future based on SSLEP 2015 and SSDCP 2015 controls., however the Panel did note the concerns expressed by the community as to the potential to develop dual occupancies on the individual allotments, with the subsequent increase in bulk and scale of any future development on such a sensitive site.

The Panel noted however that the future development of the site does not form part of this application, but would need to be considered by Council based on its merits, should such an application be made.

However, notwithstanding this consistency, the Panel also considers that the proposal fails to demonstrate that potential future development upon Lot 1 can be sited to protect the natural features of the site.

In that regard the Panel notes that the most significant of the natural features are located on Lot 1 and include the four mature trees within the front portion of the site and the local heritage Item located at No. 698 Port Hacking Road (house and gardens).

The indicative building footprint requires removal of the *Acmena smithii* (Lilli Pilli) which is the largest tree on the site and which has significant amenity value for not just the site but for the immediate locality.

The remainder of the site is largely devoid of mature vegetation, with only limited species on the eastern side of the existing dwelling. These trees are also proposed to be removed to make way for future dwellings.

Accordingly the Panel agrees with the Council's assessment report that the proposed subdivision is contrary to the objectives of the E4 zone, and it fails to allow for a development that protects and restores trees on what is a site of high aesthetic value.

The Panel also agrees with Council's assessment report that insufficient information has been provided with respect to the proposed access driveway, pedestrian right of way, and the communal recreation area on the waterfront part of the site. The Panel has been informed that access to the waterway is no longer proposed from lots 1 and 2

In that regard the Panel is of the view that the waterfront interface is of both scenic and environmental importance as set out in SSLEP 2015 and the Coastal SEPP, and requires further consideration in terms of the most appropriate way to manage the existing landform with the intended future use by a

number of different users.

The Panel also notes that there are portions of the site that are the narrowest and where the non-compliance with the lot width development standard occurs.

The application has been assessed by the Panel having regard to the Heads of Consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979, together with the provisions of Sutherland Shire Local Environmental Plan and all relevant Council DCPs, Codes and Policies.

Following a detailed assessment by the Panel, it is considered that the Division 8.2 Review Application No. 18/0005 of Development Application No. 17/0992 cannot be supported for the reasons outlined in the Council's assessment report.

**VOTES:** The decision was unanimous.

The Meeting closed at 10:10pm.