



Report of Meeting

Sutherland Shire Local Planning Panel

Tuesday, 20 November 2018

6:00pm

**Council Chambers,
Level 2, Administration Building,
4-20 Eton Street, Sutherland**

SUTHERLANDSHIRE

PANEL: Jason Perica (Chairperson), Julie Savet Ward, Jan Murrell and Mark Carleton

STAFF IN ATTENDANCE: Manager, Development Assessment and Certification (Simone Plummer) and Acting Manager Major Development Assessment (Carine Elias)

Apologies

There were no apologies

DISCLOSURES OF INTEREST

File Number: 2015/14239

There were no declarations of interest.

SSLPP046-18	Proposal:	ALTERATIONS AND ADDITIONS TO A DWELLING
	Property:	LOT 11 DP 530757, (NO. 129) GEORGES RIVER CRESCENT, OYSTER BAY
	Applicant:	CAMPBELL GEOFFREY DUNGAN & KATHRYN JANE DUNGAN
	File Number:	DA17/1451

Speaking against the proposal was Vic Lake. Speaking for the proposal was Campbell Dungan.

PANEL DECISION:

That pursuant to the provisions of Section 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application No. 17/1451 for Alterations and Additions to a Dwelling at Lot 11 DP 530757 (No. 129) Georges River Crescent, Oyster Bay be approved, subject to the conditions contained in Appendix "A" of the Council staff report.

REASON FOR THE DECISION:

The Panel generally agreed with the environmental assessment as outlined in the Council staff assessment report. The Panel received further advice regarding the Coastal Management SEPP considerations prior to the meeting, which was considered by the Panel.

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 and formed the view the applicant's written request satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the development standard, notwithstanding the non-compliance, and granting consent was in the public interest. The Panel noted the proposal does not alter the overall building footprint and the non-compliance is pre-existing, with the overall landscaped area not being made worse. The proposal will not fundamentally change the landscaped setting of the site.

The Panel also had regard to the applicant's Clause 4.6 request regarding the maximum building height standard within Clause 4.3 of Sutherland Shire LEP 2015 and formed the view the applicant's written request satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the development standard, notwithstanding the non-compliance, and granting consent was in the public interest. The proposal actually reduced the overall building height by modification of the roof form, which is relatively unusual. This would lead to some improved views for surrounding properties uphill from the site.

The proposal does encroach into the foreshore area, although this is within the overall dwelling footprint, notwithstanding the ground floor level is currently an undercroft area. The proposal also includes an existing deck and spa being moved back to not encroach the foreshore area. The proposal is considered acceptable when having regard to the overall objectives and provisions of Clause 6.9 of Sutherland LEP 2005.

The Panel had regard to issues raised in submissions and agreed with the conclusions within the Council staff report. The Panel was assisted by a site visit. The main issue of privacy raised by the neighbour was not considered a significant impact, and was generally consistent with mutual overlooking of steep sites on the foreshore and was somewhat mitigated by proposed screening for the new ground floor works. The impacts of the proposal on neighbouring land did not warrant refusal of the proposal.

VOTES: The decision was unanimous.

SSLPP047-18	Proposal:	CONSTRUCTION OF AN INGROUND SWIMMING POOL
	Property:	LOT 32 SEC 1 DP 6417, (NO. 71) HOLT ROAD, TAREN POINT
	Applicant:	LOCAL POOLS & SPAS
	File Number:	DA18/0774

Speaking for the proposal were Tony Moss, Rachel Breen and Natalie Welsh.

PANEL DECISION:

That pursuant to the provisions of Section 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application No. 18/0774 for Construction of an inground swimming pool at Lot 32 Sec 1 DP 6417 71 Holt Road, Taren Point is refused for the reasons outlined below.

1. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, in that it fails to satisfy the objectives for Zone E4 – Environmental Living under the Sutherland Shire Local Environmental Plan 2015.
2. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(b) of the Environmental Planning and Assessment Act 1979, in that it fails to satisfy the objectives for landscaped areas in certain residential, business, industrial and environmental protection zones under Clause 6.14 of the Sutherland Shire Local Environmental Plan 2015.
3. The proposal was not accompanied by a written request pursuant to Clause 4.6 of Sutherland LEP 2015 and as such could not be approved. The submitted information was also fundamentally poor, lacking basic information. Despite this, there did not appear to be a compelling case to favour further reduction of the landscaped area on the site, including within the sensitive foreshore area.
4. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(e) of the Environmental Planning and Assessment Act 1979, in that granting of development consent would not be in the public interest as:
 - a) The site fails to meet the landscape development standard of 40%.
 - b) The landowner is unwilling to offset the reduction of landscaped area as a result of the proposed swimming pool by replacing any existing ancillary structures with landscaping.

The variation to the landscaped development standard is 37.4%.

REASON FOR THE DECISION:

As stated above in the terms of the decision.

The applicant's representative sought to table a cl.4.6 written request to vary the landscaped area standard and indicated that a landscape plan could be submitted later to show compensatory landscaping, and provision of a water tank and on this basis requested the Panel grant a deferred commencement consent. . However, the Panel was not satisfied this would resolve the reasons for refusal or provide any certainty in the process or outcome. It is noted that additional information had been requested by Council Officers. Clearly any amended documentation and or new plans would require lodgement to, and assessment by Council before a determination by the Panel could be made.

VOTES: The decision was unanimous.

SSLPP048-18	Proposal:	DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING
	Property:	11 MITCHELL AVENUE, JANNALI
	Applicant:	TRULAND DEVELOPMENT PTY LTD
	File Number:	DA18/0393

Speaking against the proposal were Catherine Errey and Terry Georgeson. Speaking for the proposal were Ben Black and Phillip Lord.

PANEL DECISION:

That pursuant to the provisions of Section 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application No. 18/0393 for Demolition of existing structures and construction of a residential flat building at Lot 2 DP 206541, Lot 1 DP 210456, Lot M DP 415456 11 Mitchell Avenue, Jannali, 15 Mitchell Avenue, Jannali, 13 Mitchell Avenue, Jannali be approved, subject to the conditions contained in Appendix "A" of the Council staff report, as amended below:

- A new Condition 1A to state

1A Northern Boundary Wall

The new solid masonry 1.8m high wall on the northern side boundary shall be extended eastwards to align with the front setback of the building to the north (No. 43 Oxley Avenue). This wall shall be finished on its northern side to a rendered finish and painted after consultation with the adjoining Body Corporate. Revised plans shall be submitted with the application for a Construction Certificate, with appropriate details to the satisfaction of the Certifying Authority.

- Condition 6 – Be amended to include a new point as below
 - (ix) Dust suppression measures. This shall include erecting a suitable mesh structure 3m above ground along the northern boundary prior to demolition/excavation and detail sustainably supplied water spray suppression measures for works which generate dust.
- Condition 18A(i) be amended to change 1800mm to 2500mm;
- Condition 28 be amended to require written notification to the owners and occupiers of immediately adjoining dwellings/units at least 5 days prior to the removal of any asbestos.

REASON FOR THE DECISION:

The Panel generally agreed with the environmental assessment as outlined in the Council staff assessment report.

The Panel had regard to the applicant's Clause 4.6 request regarding the maximum building height standard within Clause 4.3 of Sutherland Shire LEP 2015 and formed the view the applicant's written request satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the development standard, notwithstanding the non-compliance, and granting consent was in the public interest. The overall height and scale is consistent with that to be expected from the planning controls. The height non-compliance was minor and limited to rooftop structures that have very little impact on the overall

perceived bulk or upon neighbouring amenity.

The Panel noted the proposal was largely compliant with key planning controls for the site. It was acknowledged that the proposal would result in the removal of a large tree, which was unfortunately located in the most logical position for access due to the slope of the land and the required protection of trees to Mitchell Avenue. The retained other existing trees and new landscaping would help mitigate impacts of the tree removal. The neighbouring building to the north was located closer to the site and borrowed some of its amenity from the subject site, although units were not solely oriented to the subject site and the impact is what could reasonably be expected or anticipated given the zoning and planning controls applying to the site. The proposal had been designed to reduce the height to the northern interface and increase the setback beyond the required minimum, which was an appropriate design response. The proposal was noted to be supported by the Council's Design Review Panel and a number of design changes and refinements had been made to address various concerns during the assessment process.

The Panel had regard to issues raised in submissions and agreed with the conclusions within the staff report. The issues raised and associated impacts did not warrant refusal of the application and it was noted a number of conditions were included regarding construction management, asbestos and the like, augmented by changes to the Conditions required by the Panel.

VOTES: The decision was unanimous.

SSLPP049-18	Proposal:	DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING CONTAINING 8 UNITS
	Property:	LOTS 1 TO 4 S/P 66040, (NO. 28) BURKE ROAD, CRONULLA
	Applicant:	VIC LAKE ARCHITECTS
	File Number:	DA17/1025

Speaking against the proposal were Daniel Biro and Sean Matenaar Speaking for the proposal were Anthony McCosker and Vic Lake.

PANEL DECISION:

That pursuant to the provisions of Section 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application No. 17/1025 for demolition of existing structures and construction of a residential flat building containing 8 units at Lots 1 to 4 SP66040, (No. 28) Burke Road, Cronulla be approved, subject to the conditions contained in **Appendix "A"** of the Council staff report, as amended below:

- Condition 1 be amended to reflect the latest plans;
- Amend Condition 2A(iii) to instead require the windows to the living areas in Units 202 and 302 to have a fixed glazing panel up to 1500mm above floor level, which may be openable above that.
- Amend Condition 2A(iv) to add at the end “, to prevent overlooking units at No. 30 Bourke Road”
- Condition 18 be corrected to state “Strata”;
- Condition 21 be amended to require the supervision of excavation within the vicinity of the western boundary by a qualified arborist and works ensure the survival and health of neighbouring trees.

REASON FOR THE DECISION:

The Panel generally agreed with the environmental assessment as outlined in the Council staff assessment report. The Panel received from staff prior to the meeting an updated Condition 1 (relating to 2 plans), neighbour submissions, shadow details in 3-D, the comments from the Design Review Panel and the applicants arborists report. Regard was given to these documents.

The Panel had regard to the applicant’s Clause 4.6 request regarding the maximum building height standard within Clause 4.3 of Sutherland Shire LEP 2015 and formed the view the applicant’s written request satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the development standard, notwithstanding the non-compliance, and granting consent was in the public interest. The overall height and scale is consistent with that to be expected from the planning controls. The height

non-compliance was minor and limited to the lift over-run or rooftop structures that have very little impact on the overall perceived height and bulk or upon neighbouring amenity.

The key issue was the narrowness of the site, not complying with the minimum width for flat buildings within Sutherland DCP 2015. However, the building design, siting and arrangement of internal space appropriately responded to the site constraints and the neighbouring context. The type of use, scale and height was generally consistent with what could be expected or anticipated given the governing planning controls. Some concern existed regarding the protection of neighbouring trees, particularly to the west, although this was addressed by conditions of consent, as amended.

In terms of the adjoining units to the west, the privacy impacts were reasonably mitigated by the side setback, privacy measures within the design, existing dense landscaping on the neighbouring land and some oblique angles of orientation between the properties. The current solar access for these units is limited due to their orientation and subdivision pattern and it would be unreasonable given the zoning to expect any development to be single storey. Adjoining units to the south also receive additional overshadowing, although the rear setback reasonably mitigates the impact, and impacts largely arise from the site orientation.

The proposed parking reflected the narrow nature of the site, although impacts were largely internal to the site, with the proposed siting and layout generally minimising impacts as far as practicable.

The Panel had regard to issues raised in submissions and agreed with the conclusions within the staff report as amended above.

VOTES: The decision was unanimous.

SSLPP050-18	Proposal:	TEMPORARY USE OF COOPER STREET RESERVE FOR WEBERS CIRCUS FROM 11 MARCH 2019 TO 24 MARCH 2019
	Property:	LOT 1 DP 121423, LOT 1 DP 205485, LOT 389 DP 752033 (NO. 1148) OLD PRINCES HIGHWAY, ENGADINE
	Applicant:	WEBERS CIRCUS
	File Number:	DA18/0552

No-one registered to speak.

PANEL DECISION:

- A. That pursuant to the provisions of Section 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application No.18/0552 for Temporary Use of Cooper Street Reserve for Webers Circus from 11 March 2019 to 24 March 2019 at Lot 1 DP 121423, Lot 1 DP 205485, Lot 389 DP 752033 (No. 1148) Old Princes Highway, Engadine be approved, subject to the conditions contained in Appendix "A" of the Council staff report.
- B. That pursuant to Section 2.20(8) of the Environmental Planning and Assessment Act 1979, the Panel delegates its determination functions applications for temporary uses on Council land, where there are no objections to the General Manager (or empowered delegate within Council).

REASON FOR THE DECISION:

The Panel agreed with the environmental assessment as outlined in the Council staff assessment report. The use had occurred several times in the past with apparent success, the use was temporary, and the site is suitable for the temporary use.

By way of comment such temporary proposals (where there are no objections) could reasonably be determined by Council staff.

VOTES: The decision was unanimous.

The Meeting closed at **8.55pm**.