



# **Report of Meeting**

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## **Sutherland Shire Local Planning Panel**

**Tuesday, 4 December 2018**

**6.00pm**

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

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**SUTHERLANDSHIRE**

**PRESENT:** Jason Perica (Chair), Charles Hill, Mary-Lynne Taylor and David Corry

**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**

There were no declarations of interest.

<b>SSLPP051-18</b>	<b>Proposal:</b>	<b>5 LOT TORRENS TITLE SUBDIVISION, WITH 1 LOT TO BE DEDICATED TO COUNCIL</b>
	<b>Property:</b>	<b>LOT 432 DP855460 (NOS. 109-111) CARAVAN HEAD ROAD OYSTER BAY</b>
	<b>Applicant:</b>	<b>BRUCE C GRAY, WARWICK R GRAY</b>
	<b>File Number:</b>	<b>DA17/1534</b>

Speaking against the proposal were Paul and Ewa Talbot. Speaking for the proposal were Lyndall Wynne, Chris Morris, Graham Swain, Nigel Gray.

**PANEL DECISION**

THAT: Development Application No. 17/1534 for 5 lot Torrens title subdivision, with 1 lot to be dedicated to Council at Lot 432 DP 855460 (No.s 109-111) Caravan Head Road, Oyster Bay is determined by the refusal of development consent for the reasons outlined below.

- a) 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 does not promote orderly and economic use and development of the land pursuant to Section 1.3(c) of the Environmental Planning and Assessment Act 1979.
- b) 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 the development will not result in any neutral and/or beneficial environmental, ecological and/or biodiversity impacts as the development will have an adverse impact upon a threatened species and its habitat pursuant to Section 1.3(e) of the Environmental Planning and Assessment Act 1979.
- c) The application is considered unacceptable pursuant to the provisions of s.4.15 (1) of the Environmental Planning and Assessment Act 1979 as insufficient information was submitted to satisfy the provisions of the Rural Fires Act 1997 and Planning for Bushfire Protection 2006.

- d) The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as insufficient information was submitted to satisfy the provisions of the Greater Metropolitan Regional Environmental Plan No 2 - Georges River Catchment.
- e) The application is considered unacceptable pursuant to the provisions of s.4.15 (1) of the Environmental Planning and Assessment Act 1979 as insufficient information was submitted to satisfy the provisions of the Water Management Act 2000.
- f) The application is considered unacceptable pursuant to the provisions of s.4.15(1) of the Environmental Planning and Assessment Act 1979 as insufficient information was submitted to satisfy the provisions of Section 1.7 of the Environmental Planning and Assessment Act 1979 and the Biodiversity Conservation Act 2016, specifically relating to the impacts upon threatened species.
- g) The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as insufficient information was submitted to satisfy the provisions of State Environmental Planning Policy No.19 Bushland in Urban Areas,
- h) The application is considered unacceptable pursuant to the provisions of 4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposed development is inconsistent with the objectives of the E3 Environmental Management Zone under Sutherland Shire Local Environmental Plan 2015.
- i) 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 insufficient information was submitted to demonstrate that the development satisfies the provisions of Clauses 4.1 of the Sutherland Shire Local Environmental Plan 2015, specifically ensuring that the allotments have sufficient areas for a dwelling, outdoor recreation and service space, landscaping and parking.
- j) The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the existing dwelling on proposed Lot 1 satisfies the maximum floor space ratio pursuant to Clause 4.4 of the Sutherland Shire Local Environmental Plan 2015.

- k) The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies the aims, objectives and provisions of Clause 6.2 of the Sutherland Shire Local Environmental Plan 2015, specifically detailing the total extent of works and the impacts upon drainage patterns, soil stability, redevelopment of the land, potential impacts upon waterways and environmentally sensitive areas.
- l) The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies the aims, objectives and provisions of Clause 6.3 of the Sutherland Shire Local Environmental Plan 2015, specifically the submission of a flood study.
- m) 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 insufficient information was submitted to demonstrate that the development satisfies the aims, objectives and provisions of Clause 6.5 of the Sutherland Shire Local Environmental Plan 2015, specifically demonstrating that the development being designed to manage and avoid any adverse impacts upon the Powerful Owl, its habitat, associated biological and ecological functions that support the threatened species and other flora and fauna.
- n) 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 insufficient information was submitted to demonstrate that the development satisfies the aims, objectives and provisions of Clause 6.8 of the Sutherland Shire Local Environmental Plan 2015, specifically demonstrating that the development will not have any adverse impacts upon environmental and scenic qualities of natural landforms.
- o) 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 insufficient information was submitted to demonstrate that proposed Lot 1 satisfies Clause 6.14 of the Sutherland Shire Local Environmental Plan 2015, specifically demonstrating that the lot complies with the minimum landscape ratio.
- p) The application is considered unacceptable pursuant to the provisions of s.4.15 (1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies the planning controls contained in Chapter 3 of the Sutherland Shire Development Control Plan 2015, specifically demonstrating that the existing dwelling house on proposed Lot 1 complies with the planning controls for dwellings on land within an E3 zone.

- q) The application is considered unacceptable pursuant to the provisions of s.4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies the planning controls contained in Chapter 36 of the Sutherland Shire Development Control Plan 2015, specifically demonstrating that access, parking, manoeuvrability is afforded to each allotment in accordance with relevant planning controls.
- r) The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies the planning controls contained in Chapter 39 of the Sutherland Shire Development Control Plan 2015, specifically demonstrating that the development satisfies the planning controls relating to the Greenweb Strategy, threatened species, tree and bushland vegetation.
- s) The application is considered unacceptable pursuant to the provisions of s.4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies the planning controls contained in Chapter 40 of the Sutherland Shire Development Control Plan 2015, specifically demonstrating that the development satisfies the planning controls relating to asset protection zones and flood risk management.
- t) The application is considered unacceptable pursuant to the provisions of s.4.15(1) of the Environmental Planning and Assessment Act 1979 and Schedule 1 of the Environmental Planning Assessment Regulations 2000 in that insufficient information was submitted to on the plans of development to enable a comprehensive assessment of the application against the heads of consideration.
- u) The application is considered unacceptable pursuant to the provisions of s.4.15(1) of the Environmental Planning and Assessment Act 1979 in that landowners consent was not obtained for the use of their land to form part of asset protection zones to satisfy the provisions of Section 100B of the Rural Fires Act 1997 and Planning for Bushfire Protection 2006.
- v) The application is considered unacceptable pursuant to the provisions of s.4.15 (1) (c) of the Environmental Planning and Assessment Act 1979 in that subject land is not suitable for the proposed development.
- w) 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 development is not within the public interest.

**REASON FOR THE DECISION**

The reasons are outlined in the decision above. The Panel agreed with the Council staff assessment of the application.

The request to defer the application for 4 months from the applicant was not supported. There was no certainty in relation to a clear and timely resolution to the matter. While concern was raised about the time to advise of concerns raised by Council staff, there were issues raised at PreDA that were not followed through and the applicant had been given several extensions over a period of months. The application warranted determination.

There may be some scope for subdivision of the land, but the proposal was not well considered in terms of land impacts, consequent biodiversity impacts, bushfire protection and access. The applicant is strongly encouraged to liaise with Council prior to any new or revised proposal.

**VOTES:** The decision was unanimous.

<b>SSLPP052-18</b>	<b>Proposal:</b>	<b>SECTION 4.55(2) MODIFICATION TO DA15/0732 - AMEND CONDITION 17 TO ALLOW FOR CONTINUED OPERATION OF IRON FOUNDRY</b>
	<b>Property:</b>	<b>LOT 102 DP566999 (NO. 98) BATH ROAD, KIRRAWEE</b>
	<b>Applicant:</b>	<b>PAUL CLINGAN</b>
	<b>File Number:</b>	<b>MA17/0164</b>

Speaking against the proposal were Brian Lloyd, Councillor Steve Simpson (Deputy Mayor), Councillor Tom Croucher, Cath Weismantel, Natalie Ettingshausen, Jo Ansell and David Rowlings. Speaking for the proposal was Paul Clingan.

### **PANEL DECISION**

THAT: pursuant to the provisions of Section 4.55(2) of the Environmental Planning and Assessment Act 1979, the requested modification to Development Consent No.15/0732 dated 20 April 2016 for the change of use of an industrial building to a ferrous and non-ferrous foundry and processing and recycling of ferrous and non-ferrous scrap at Lot 102 DP 566999, 98 Bath Road, Kirrawee be determined in accordance with the conditions contained in **Appendix "B"**, subject to the following changes:

- Former Condition 17 of Development Consent No.15/0732 be reinstated, but the timeframe being amended to a 2 year trial, from the date of determination of this modification application;
- Condition 7 be amended to require the OEMP to:
  - o include a complaints recording, handling and managing process;
  - o Include a requirement that the OEMP be submitted to the Council within 60 days of the date of determination of this modification application and be approved in writing by the Manager of Environmental Science.
- Former Condition 17 of Development Consent No.15/0732 be reinstated, although expanded to require an expert report on odour to be undertaken during the trial and normal operations and submitted with any future application for continued operations following the trial.
- A new condition to require the building to be under negative pressure during operation of the foundry and for an appropriate period after completion of foundry activities to address remnant dust and odour;
- A new condition to require the results of any professional sampling to be published on the company website within 14 days of a report being completed.

### **REASON FOR THE DECISION**

The zoning allows the use, and the use is consistent with the objectives of the zone, and provides local employment and services to support the local and regional economy. The use has existed for some time. There have been objections and varying accounts of the source of impacts (odour, air quality, health impacts) in the surrounding industrial area.

There is a history of complaints, and this has been reviewed independently by expert Council staff. The operation was also reviewed by NSW EPA who verified it operated within current legislative requirements (subject to coverage of a storage area). There was no clear proof to the Panel any odours or adverse health impacts directly arose or were attributable to the premises.

The Panel acknowledges and supports the changes to the DA conditions to make regulation of the facility clearer and more robust. These changes were acknowledged by the neighbour's representative expert as being a significant improvement.

However, given many of the conditions rely on management and maintenance of systems and building elements, the potential for adverse impacts, and varying accounts of attribution of issues, it is appropriate to apply a further trial. In this regard the Panel came to a majority view this should be for a period of 2 further years to allow further monitoring and compliance with the more rigorous conditions. Mr Perica was of the view this period should be 3 years to allow some business certainty and monitoring to gauge success, noting any non-compliance with conditions is able to be regulated during the trial period.

There were a number of suggestions made for additional conditions by the neighbour's appointed expert (who acknowledged the robust assessment, improved conditions and extra conditions with a trial was a reasonable outcome). A number of these were agreed to be reasonable by the Panel as reflected in the decision above.

**VOTES:** The decision was unanimous, although there was some difference of view on the time period for the trial as outlined above.



<b>SSLPP053-18</b>	<b>Proposal:</b>	<b>DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A BOARDING HOUSE</b>
	<b>Property:</b>	<b>LOT 1 DP 20660, (NO. 158) THE BOULEVARDE, MIRANDA</b>
	<b>Applicant:</b>	<b>ARCHISPECTRUM</b>
	<b>File Number:</b>	<b>DA18/0608</b>

Speaking against the proposal were Rodriigo Valentino/Nick Kidis, Jo McLauchlain, Lynne/Roger Pauling, David Henderson and Kyle Burtland. No-one attended to speak or answer questions for the applicant.

### **PANEL DECISION**

THAT: Development Application No. 18/0608 for the demolition of existing structures and construction of a boarding house at Lot 1 DP 20660 (No. 158) The Boulevarde, Miranda is determined by the refusal of development consent for the reasons outlined below:

- a) The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 as insufficient information has been submitted to enable a comprehensive assessment of the application against the heads of consideration.
- b) The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposed development does not satisfy Sections 27(2)(3) from the State Environmental Planning Policy (Affordable Rental Housing) 2009 as the subject site is not located within an 'accessible area'.
- c) The application is considered unacceptable pursuant to the provisions of s4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979 in that the proposed development does not satisfy Section 29(1) (a) from the State Environmental Planning Policy (Affordable Rental Housing) 2009 as the development exceeds the maximum permitted floor space ratio pursuant to Clause 4.4 from the Sutherland Shire Local Environmental Plan 2015.
- d) The application is considered unacceptable pursuant to the provisions of s4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979 in that the proposed development does not satisfy Section 29(2) (a) from the State Environmental Planning Policy (Affordable Rental Housing) 2009 as the development exceeds the maximum permitted height of building provisions pursuant to Clause 4.3 from the Sutherland Shire Local Environmental Plan 2015. The applicant has failed to lodge a written request in accordance with the requirements of Clause 4.6 of SSLEP 2015 and has not shown unreasonable or unnecessary nor sufficient environmental planning grounds for the Clause to be varied.

- e) The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposed development does not satisfy Section 29(2)(b) from the State Environmental Planning Policy (Affordable Rental Housing) 2009 as the landscape treatment, high fencing, car parking and bin storage within the front setback areas to The Boulevarde and Kareena Road is not compatible with the existing and future desired streetscape character of the locality. The applicant has failed to lodge a written request in accordance with the requirements of Clause 4.6 of SSLEP 2015 and has not shown unreasonable or unnecessary nor sufficient environmental planning grounds for the Clause to be varied.
- f) The application is considered unacceptable pursuant to the provisions of s4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979 in that the proposed development does not satisfy Section 29(2) (c) from the State Environmental Planning Policy (Affordable Rental Housing) 2009 as the communal living area will not receive a minimum of 3 hours of direct sunlight between 9am to 3pm in midwinter.
- g) The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposed development does not satisfy Section 29(2)(e) from the State Environmental Planning Policy (Affordable Rental Housing) 2009 as insufficient parking is provided for the proposed development.
- h) The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979 in that the proposed development does not satisfy Section 30A from the State Environmental Planning Policy (Affordable Rental Housing) 2009, Objective (5) of the R2 Low Density Residential Zone from Sutherland Shire Local Environmental Plan 2015 and the Streetscape and Building Form Objectives 1.1(1)(2) and Building Setbacks Objectives 2.1(1)(2)(3)(4)(6), Controls 2.2(3)(4) and 7.2(1), Part C, Chapter 2 of Sutherland Shire Development Control Plan 2015 as Council is of the opinion that the development will not have a positive streetscape contribution and is not compatible with the character of the local area.
- i) The application is considered unacceptable pursuant to the provisions of s4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies Controls 1.2(1) and 3.2(1), Part C, Chapter 2 of Sutherland Shire Development Control Plan 2015 as the development has not been designed to respond with the topography of the site.
- j) The application is considered unacceptable pursuant to the provisions of s4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies Controls 2.2(2) and 2.2(5), Part C, Chapter 2 of Sutherland Shire Development Control Plan 2015 as the development has a secondary street setback that is less than the 3m minimum requirement.

- k) The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies Controls 5.2(1)(2)(4), Part C, Chapter 2 of Sutherland Shire Development Control Plan 2015 as the design of the development fails to maximise solar access and natural light into habitable rooms and private open space areas for a minimum 3 hours at midwinter, resulting in poor internal amenity for future residents.
- l) The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies Objectives 6.1(1), Part C, Chapter 2 of Sutherland Shire Development Control Plan 2015 as the design of the development and the rooms are compromised in regard to internal amenity, lack of solar access, lack of cooking, laundry, wardrobe and dining facilities.
- m) The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies Controls 5.2(7) and 6.2(2), Part C, Chapter 2 of Sutherland Shire Development Control Plan 2015 as insufficient information was submitted to demonstrate that the development will not have any adverse impact upon solar access to habitable rooms of the adjoining dwelling house located at No.160 The Boulevard, Miranda.
- n) The application is considered unacceptable pursuant to the provisions of s4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies Control 7.2(1), Part C, Chapter 2 of Sutherland Shire Development Control Plan 2015 as the development proposes parking spaces that are forward of the building line.
- o) The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies Controls 7.2(4), Part C, Chapter 2 of Sutherland Shire Development Control Plan 2015 as insufficient information was provided demonstrating that the development satisfies the requirements of Australian Standard AS2890.1, specifically regarding the provision of an accessible parking space and the provision of an internal access from the parking area to the entrance of the development.
- p) The application is considered unacceptable pursuant to the provisions of s4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies Controls 8.2, Part C, Chapter 2 of Sutherland Shire Development Control Plan 2015 as insufficient information was submitted to satisfy the controls relating to waste management.
- q) The application is considered unacceptable pursuant to the provisions of s4.15 (1) (b) of the

Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to assess the development's impacts upon the large mature Tallowood trees located within The Boulevard and Kareena Road reserves, in this case, the submission of an arborists report.

- r) The application is considered unacceptable pursuant to the provisions of s4.15 (1) (c) of the Environmental Planning and Assessment Act 1979 in that subject land is not suitable for the proposed development.
  
- s) The application is considered unacceptable pursuant to the provisions of s4.15 (1) (e) of the Environmental Planning and Assessment Act 1979 in that approval of the development will create an undesirable precedent.

### **REASON FOR THE DECISION**

The Panel agreed with the environmental assessment by Council staff.

**VOTES:** The decision was unanimous.

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<b>SSLPP054-18</b>	<b>Proposal:</b>	<b>DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A MULTI DWELLING HOUSING DEVELOPMENT CONTAINING 5 TOWNHOUSES</b>
	<b>Property:</b>	<b>LOTS 16 &amp; 17 DP208755, (NO. 23 - 25) VIOLET STREET, MIRANDA</b>
	<b>Applicant:</b>	<b>JMH LIVING DESIGN</b>
	<b>File Number:</b>	<b>DA17/0902</b>

Speaking against the proposal were James White, Ken May, David McMillan, George Gifford, Mark Cutcliffe and Jim Dean. Speaking for the proposal were John Hatch and Anthony McCosker

### **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. 17/0902 for Demolition of existing structures and construction of a multi dwelling housing development containing 5 townhouses at Lot 16 DP 208755, Lot 17 DP 208755 (No. 25) Violet Street, Miranda, (No. 27) Violet Street, Miranda be refused, for the reasons below:

Having regard to the considerations in Section 4.15(C) of the Environmental Planning and Assessment Act 1979, the application is inappropriate for the following reasons:

- a) The nature of the site was relatively unusual due to the narrow street frontage, wide and long boundaries, and subdivision pattern such that there were 9 direct or indirectly adjoining properties/dwellings. The site shape and neighbour interface warranted a sensitive design. The proposal did not provide this.
- b) The design, siting and massing of the proposal adopted a central access way and paved areas to double garages, compromising the ability for the central portion of the site to provide communal open space and amenity for the 5 townhouses. This also pushed the massing and long building forms to the side and rear boundaries, closest to the many neighbours, with minimal setbacks, with orientation borrowing amenity from neighbouring properties.
- c) The use is permissible and care needs to be applied when applying zone objectives in these circumstances, although they must be considered in light of the chosen configuration, massing and siting of a proposal. The chosen configuration and design of the proposal was inconsistent with the zone objectives related to single dwelling character, landscaped character, neighbourhood character and streetscapes.
- d) The nature of the use, site and interfaces with neighbours in this instance made the application of the two storey control within SSDCP 2015 (limited to the 60% of the development depth) very important in this instance. The design mitigation was not successful and resulted in long building forms, an incohesive design and adverse visual impacts within an insufficient landscape setting.

- e) The proposal was an overdevelopment of the site (despite complying with height, and landscaping), which are maximum numeric controls that do not guarantee approval.
- f) The landscaped setting, streetscape interface and front landscaping was insufficient.
- g) The design quality and outcome was compromised and poor. The Panel shared the concerns of both the Council's Design Review Panel and Council's architect. The proposal was unacceptable against the required considerations within both Clause 6.16 and 6.17 of Sutherland Shore LEP 2015.

**REASON FOR THE DECISION**

The Panel disagreed with the environmental assessment by Council staff, assisted by a thorough review of the plans and the site. The reasons for the decision are outlined above.

**VOTES:** The decision was unanimous.

<b>SSLPP055-18</b>	<b>Proposal:</b>	<b>DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A MIXED USE BUILDING COMPRISING 44 RESIDENTIAL APARTMENTS AND COMMERCIAL SPACE (HEALTH SERVICE FACILITY) ON THE GROUND AND FIRST FLOOR LEVELS</b>
	<b>Property:</b>	<b>LOTS 17 - 20 DP8147 (NOS. 376 - 382) KINGSWAY, CARINGBAH</b>
	<b>Applicant:</b>	<b>CKDS ARCHITECTURE</b>
	<b>File Number:</b>	<b>DA17/1665</b>

Speaking against the proposal were Stephen Weinstein, Julia Weinstein, Helena Simon and Dane Morris. Nicole Lennon attended on behalf of the applicant to answer questions.

### **PANEL DECISION**

THAT: Development Application No. 17/1665 for demolition of existing structures and construction of a mixed use building comprising 44 residential apartments and commercial space (health service facility) on the ground and first floor levels at Lots 17, 18, 19 and 20 DP 8147 376 to 382 Kingsway, Caringbah is determined by the refusal of development consent for the reasons outlined below:

- a) The proposed development is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the proposal fails to satisfy the controls and objectives for amalgamation of land contained within Clause 5, Chapter 9 of Sutherland Shire Development Control Plan 2015 (SSDCP2015). Critically, the site did not include any sites to Flide Street, which compromised access, future redevelopment of surrounding sites and attainment of the strategic vision for the area.
- b) The proposed development is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal is not of the desired future character envisaged for the Caringbah Medical Precinct locality. The proposal fails to comply with the objectives of the Medical Precinct clause for additional building height and floorspace under Clauses 6.21(4) and 6.21(5) of Sutherland Shire Local Environmental Plan 2015 (SSLEP2015).
- c) The proposed development is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal fails to comply and satisfy the objectives of the building height development standard under Clause 4.3(2) of SSLEP 2015.
- d) The proposed development is considered unacceptable pursuant to the provisions of s.4.15 (1) (a) (i) of the Environmental Planning and Assessment Act 1979, as the proposal fails to comply and satisfy the landscaped area development standard under Clause 4.3(2) of SSLEP2015.

- e) The proposed development is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal is inconsistent with SEPP 65 with respect to the requirements of the *Apartment Design Guide* (ADG) including building separation, communal open space, solar access, ventilation, private open space, storage and apartment layout.
- f) The proposed development is considered unacceptable pursuant to the provisions of s.79C (1) (a) (i) of the Environmental Planning and Assessment Act 1979, as the proposal fails to satisfy Clause 6.16 Urban Design – general of SSLEP2015, in that the design and bulk and scale of the building extending across the site will unlikely contribute to the desired future character of the locality.
- g) The proposed development is considered unacceptable pursuant to the provisions of s.79C(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal fails to satisfy Clause 6.17 Urban Design – residential accommodation of SSLEP2015, in that the proposal will result in adverse impacts on adjoining properties in terms of size, bulk, height, scale and siting.
- h) 8. 9. The proposed development is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the ground floor lobby layout fails to satisfy objective 17.1.1 for safety and security contained within SSDCP2015.
- i) The proposed development is considered unacceptable pursuant to the provisions of s.4.15 (1) (a) (iii) of the Environmental Planning and Assessment Act 1979, in that the basement setback is non-compliant with the 6m front setback requirement of Clause 10.2.3 of Chapter 9 contained in SSDCP 2015 and this setback will prevent quality vegetation including canopy trees from being provided along Kingsway frontage.
- j) The proposed development is considered unacceptable pursuant to the provisions of s.79C(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the vehicular access proposed is non-compliant within Clause 5.2.1 contained in Chapter 9 of SSDCP2015 which requires new development to ensure that efficient and safe vehicle entry points can be achieved.
- k) The proposed development is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the parking provided for the development is non-compliant with the controls of Clause 18 of Chapter 9 contained in SSDCP 2015 with respect parking for the residential units and health facility medical centre.



- l) The proposed development is considered unacceptable pursuant to the provisions of s.79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979, as a revised waste management plan is required addressing *'Waste Collection for New Multi-Unit Dwellings and Residential Flat Buildings 2017 Sutherland Shire Council Environmental Specification'* and *'Better Practice Guidelines for Waste Management in Multi Unit Dwellings 2008, Department of Environment and Climate Change NSW'*.
- m) The proposed development is considered unacceptable pursuant to the provisions of s.79C (1) (a) (iii) of the Environmental Planning and Assessment Act 1979, in that the stormwater design provided fails to demonstrate that a drainage easement could not be obtained to facilitate a connection to the Flide Street drainage network as required in Clause 5.7 of Council's Environmental Specification – Stormwater Management 2009.
- n) 14 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 approval of the development will create an undesirable precedent and is therefore not in the public interest.

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

The subdivision pattern established by the DCP for the area was logical and sound. The proposal critically failed to provide access from Flide Street, which had adverse traffic implications on the Kingsway and compromised the surrounding amalgamation possibilities to give effect to the strategic vision for the area.

The layout of units also exacerbated impacts to neighbouring land (now and into the future) specifically by having a large number of units with sole access and orientation over adjoining sites.

The reasons for the decision are outlined above.

**VOTES:** The decision was unanimous.

<b>SSLPP056-18</b>	<b>Proposal:</b>	<b>ALTERATIONS AND ADDITIONS TO AN EXISTING DWELLING</b>
	<b>Property:</b>	<b>LOT 52 DP 710019 (8) TURTLE ROAD, CARINGBAH SOUTH</b>
	<b>Applicant:</b>	<b>SYDNEY TOWN PLANNING PTY LTD</b>
	<b>File Number:</b>	<b>DA18/0708</b>

Speaking for the proposal was 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 18/0708 for Alterations and additions to an existing dwelling at Lot 52 DP 710019, 8 Turtle Road, Caringbah South be approved, subject to the conditions contained in Appendix A of the report.

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

The Panel agreed with the assessment of the proposal by Council staff.

The Panel had regard to the applicant's Clause 4.6 request regarding the Foreshore Area standard within Clause 6.9 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 is relatively minor, other key development standards were complied with and the setting and objectives of the foreshore area controls were not compromised.

In terms of considering community views, the Panel noted no submissions were received

**VOTES:** The decision was unanimous.

<b>SSLPP057-18</b>	<b>Proposal:</b>	<b>PLANNING PROPOSAL - SSLEP2015 MINOR AMENDMENTS: CLAUSES, ZONING AND DEVELOPMENT STANDARDS 2018</b>
	<b>Property:</b>	<b>MULTIPLE</b>
	<b>Applicant:</b>	<b>SUTHERLAND SHIRE COUNCIL</b>
	<b>File Number:</b>	<b>2018/323614</b>

No speakers registered.

#### **PANEL DECISION**

Sutherland Shire Local Planning Panel advises Council that the Panel supports the Planning proposal proceeding to Gateway, noting the relatively minor nature of the proposed administrative amendments, and that issues of detail are able to be considered and addressed during and following the gateway, public exhibition and detailed processes that will follow.

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

The Panel noted the outline of issues in the Council staff. The reasons for support are implicit in the decision above.

**VOTES:** The decision was unanimous.

<b>SSLPP058-18</b>	<b>Proposal:</b>	<b>PLANNING PROPOSAL - SSLEP2015 MINOR AMENDMENT: EXEMPT AND COMPLYING DEVELOPMENT 2018</b>
	<b>Property:</b>	<b>N/A</b>
	<b>Applicant:</b>	<b>SUTHERLAND SHIRE COUNCIL</b>
	<b>File Number:</b>	<b>2018/323612</b>

No speakers registered.

#### **PANEL DECISION**

Sutherland Shire Local Planning Panel advises Council that the Panel supports the Planning proposal proceeding to Gateway, noting the relatively minor nature of the proposed administrative amendments, and that issues of detail are able to be considered and addressed during and following the gateway, public exhibition and detailed processes that will follow.

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

The Panel noted the outline of issues in the Council staff. The reasons for support are implicit in the decision above.

**VOTES:** The decision was unanimous.

The Meeting closed at **9.37pm**.