



Report of Meeting

Sutherland Shire Local Planning Panel

Tuesday, 18 December 2018

6:00pm

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

SUTHERLANDSHIRE

PANEL: Grant Christmas (Chair), Jan Murrell (Expert Member) and Peter Flynn (Community Member).

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

DISCLOSURES OF INTEREST
File Number: 2015/14239

There were no declarations of interest.

SSLPP059-18	Proposal:	DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A CHILD CARE CENTRE CONTAINING 104 CHILDREN AND BOUNDARY ADJUSTMENT
	Property:	LOTS 5 - 7 DP 26332 (NO. 1) VIEW STREET, MIRANDA
	Applicant:	INNOVATE ARCHITECTS PTY LTD
	File Number:	DA17/1786

Speaking for the proposal was Jeff Mead. Speaking against the proposal were Jill Newman and Kevin Wong.

PANEL DECISION:

THAT:

1. Pursuant to the provisions of clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the Panel is satisfied that the written request in relation to the contravention of clause 4.1 of the LEP adequately addresses the required matters in clause 4.6(3). The Panel agreed that the clause 4.6 request demonstrated that compliance with the lot size development standard was unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening the development standard. Further, the Panel considered that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.
2. Development Application No. 17/1786 for demolition of existing structures and construction of a 97 place child care centre and boundary adjustment at Lot 12 DP 26327, Lot 5-7 DP 26332 1-7 View Street, Miranda be approved, subject to the conditions contained in Appendix "A" of the report and with the following additional or amended conditions:

- (a) Amend condition 1 to refer to the Plan of Management annexed to the Statement of Environmental Effects; the acoustic report and the traffic report.
- (b) Delete the reference in condition 1 to: “and any details on the application form and on any supporting information received with the application”.
- (c) Amend condition 4(ii) to read: “The centre is not to accommodate more than 97 children on site at any given time.”
- (d) Add the following condition:

Plan of Management

A. Prior to Occupation / Occupation Certificate

A Plan of Management is to be submitted to Council for review and authorisation prior to occupation or the issue of any Occupation Certificate. The Plan of Management is to:

- *propose times the children in each play area will be playing outside (in consideration of potential impacts on nearby residents);*
- *detail management strategies that can be implemented if noise in the outdoor play area needs to be reduced;*
- *specify the type of activities to be conducted in each outdoor play area; and*
- *detail the operation of a complaints register.*

B. Ongoing

The child care centre is to operate in accordance with the Plan of Management and reviewed with Council's consent to ensure the centre is operating to minimise impacts on the surrounding residential area.

- (e) Add the following condition:

Lot Consolidation

Lots 5, 6, 7 in DP 26332 and the 2m eastern strip of Lot 12 in DP 26327 are to be consolidated and registered with the relevant authority prior to the issue of any Construction Certificate. The dwelling on No. 7 View Street is to be demolished before registration of the plan of consolidation.

- (f) Amend condition 35D to require acoustic validation testing after 12 months of operation or full capacity whichever comes first.

REASON FOR THE DECISION:

1. The Panel considered the proposal was well designed and had satisfactorily addressed the likely impacts that will result from the use.
2. The Panel considered that the conditions of consent (with refinement) would ensure that amenity impacts would be minimised.

VOTES: The decision was unanimous.

SSLPP060-18	Proposal:	ALTERATIONS AND ADDITIONS TO EXISTING DWELLING AND CONSTRUCTION OF SWIMMING POOL AND ASSOCIATED LANDSCAPE WORKS
	Property:	LOT 15 DP 230236, (NO. 19) FLAT ROCK ROAD, GYMEA BAY
	Applicant:	BEN MATHEW ROBERTS
	File Number:	DA18/0271

Speaking for the proposal were Jeff Mead and Cameron Jones. No-one registered to speak against the proposal.

PANEL DECISION:

THAT:

1. Pursuant to the provisions of clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the Panel is satisfied that the written request in relation to the contraventions to the building height and development within the foreshore building line standards adequately address the required matters in clause 4.6(3). The Panel agreed that the clause 4.6 requests demonstrated that compliance with the development standards was both unnecessary and unreasonable in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standards. Further, the Panel considered that the proposed development will be in the public interest because it is consistent with the objectives of the particular standards and the objectives for development within the zone in which the development is proposed to be carried out.
2. That Development Application No. 18/0271 for alterations and additions to existing dwelling and construction of swimming pool and associated landscape works at Lot 15 DP 230236 19 Flat Rock Road, Gymea Bay be approved, subject to the conditions contained in Appendix "A" of the report.

REASON FOR THE DECISION:

The Panel considered that appropriate amendments had been made during the application process to ensure that the development would be satisfactory.

VOTES: The decision was unanimous.

SSLPP061-18	Proposal:	BOUNDARY ADJUSTMENT BETWEEN TWO EXISTING TORRENS TITLE LOTS
	Property:	LOT 1 DP 206245, LOT 2 DP 206245, (NOS. 533 & 533A) WILLARONG ROAD, CARINGBAH SOUTH
	Applicant:	REX AIRD WELLS
	File Number:	DA18/0623

Speaking for the proposal was Rex Wells. No-one registered to speak against the proposal.

PANEL DECISION:

THAT:

1. Pursuant to the provisions of clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the Panel is satisfied that the written request in relation to the contravention of clause 4.1 and 4.1A of the LEP adequately address the required matters in clause 4.6(3). The Panel agreed that the clause 4.6 request demonstrated that compliance with the development standards was unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standards. Further, the Panel considered that the proposed development will be in the public interest because it is consistent with the objectives of the particular standards and the objectives for development within the zone in which the development is proposed to be carried out.
2. Pursuant to the provisions of Section 4.16 of the *Environmental Planning and Assessment Act, 1979*, Development Application No.18/0623 for Boundary adjustment between two existing Torrens title lots at Lot 1 DP 206245, Lot 2 DP 206245 533 Willarong Road, Caringbah South, 533A Willarong Road, Caringbah South is determined by the granting of development consent subject to the conditions as per Appendix "A".

REASON FOR THE DECISION:

1. The Panel was satisfied the proposed boundary adjustment was acceptable in the particular circumstances of the case.
2. The Panel was of the opinion that the conditions recommended in the Council officer's report were appropriate to ensure that orderly development (subdivision) of the land was carried out in the future as such conditions attach to the land.

VOTES: The decision was unanimous.

SSLPP062-18	Proposal:	DEMOLITION OF AN EXISTING DWELLING AND CONSTRUCTION OF A NEW DWELLING AND SWIMMING POOL
	Property:	LOT 12 SEC 6 DP 6451, (NO. 36) WOODLANDS ROAD, TAREN POINT
	Applicant:	GRAPHIO AM
	File Number:	DA18/0449

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 Panel is satisfied that the written request in relation to the contravention of the development within the foreshore building line standards in clause 6.9 of the LEP adequately addresses the required matters in clause 4.6(3) of the LEP. The Panel agreed that the clause 4.6 request demonstrated that compliance with the development standard was unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. Further, the Panel considered that the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.
2. That Development Application No. 18/0449 for the demolition of an existing dwelling and construction of a new dwelling and swimming pool at Lot 12 Sec 6 DP 6451, 36 Woodlands Road, Taren Point be approved, subject to the conditions contained in Appendix A of the report and the following amendments:
 - (a) Condition 10B be amended to delete the second sentence; provide for a minimum of 8 trees to be planted on site (2 x Southern Mahogany, 3 x Coastal Banksia and 3 trees nominated by Council) and 1 x street tree to be provided.

REASON FOR THE DECISION:

The Panel considered that the development was unlikely to have any adverse environmental impacts.

VOTES: The decision was unanimous.

SSLPP063-18	Proposal:	TORRENS TITLE SUBDIVISION OF 1 LOT INTO 2 AND CONSTRUCTION OF A DUAL OCCUPANCY WITH 2 LOT TORRENS TITLE SUBDIVISION ON PROPOSED LOT 2
	Property:	LOT 18 DP23446 NO. 6 ROSSFORD AVENUE, JANNALI
	Applicant:	CHAMPION HOMES SALES PTY LTD
	File Number:	DA18/0755

Speaking for the proposal were Jenny Morgan and George Vardas. Speaking against the proposal was Kate McGregor.

PANEL DECISION:

THAT:

Development Application No. 18/0755 for Torrens title subdivision of 1 lot into 2 and construction of a dual occupancy with 2 lot Torrens title subdivision on proposed lot 2 at Lot 18 DP 23446 6 Rossford Avenue, Jannali be refused for the following reasons:

1. The Clause 4.6 written request in relation to the non-compliance with clause 4.3(2B) (maximum building height development standard) of the LEP is not well founded. The acceptance of the request would set an undesirable precedent with respect to building height and design in the immediate locality and is not in the public interest.
2. The right of way benefitting the site may not be able to cater for the future use of adjoining land.
3. A better design and more orderly development would result from a dual occupancy fronting Rossford Avenue and a single dwelling in the rear yard.
4. The location of the proposed dual occupancy and its relationship to adjoining development is unsatisfactory and out of character with the locality.

REASON FOR THE DECISION:

As per the reasons for refusal.

VOTES: The decision was unanimous.

SSLPP064-18	Proposal:	CONSTRUCTION OF A DWELLING, RETAINING WALLS, EXCAVATION AND IN-GROUND SWIMMING POOL
	Property:	LOT 8 DP 270656, (No. 41) Old Ferry Road, ILLAWONG
	Applicant:	CK Design Pty Ltd
	File Number:	DA17/0779

Speaking for the proposal were George Haddad and Peter Azar. No-one registered to speak against the proposal.

PANEL DECISION:

THAT:

That Development Application No. 17/0779 for the construction of a dwelling, excavation, retaining walls and in-ground swimming pool at Lot 8 DP 270656, 41 Old Ferry Road, Illawong is determined by the refusal of development consent for the reasons outlined below.

1. Pursuant to the provisions of section 4.15(1)(a)(i) of the Environmental Planning and Assessment, the proposed development exceeds the maximum height development standard permitted under clause 4.3(2) of the Sutherland Shire Local Plan 2015 and it has not been demonstrated by means of a written request that the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening of the development standard as mandatory under clause 4.6(3) of the Sutherland Shire Local Environmental Plan 2015.
2. Pursuant to the provisions of section 4.15(1)(a)(i) of the Environmental Planning and Assessment, the proposed development exceeds the maximum gross floor area development standard permitted under clause 4.4(2) of the Sutherland Shire Local Plan 2015 and it has not been demonstrated by means of a written request that the development standard is unreasonable or unnecessary in the circumstances of the case and that there are sufficient environmental planning grounds to justify contravening of the development standard as mandatory under clause 4.6(3) of the Sutherland Shire Local Environmental Plan 2015.
3. Pursuant to the provisions of section 4.15(1)(a)(i) of the Environmental Planning and Assessment, consent cannot be granted as the considerations stipulated in clause 6.8(4)(c) of Sutherland Shire Local Plan 2015 relating to siting development to avoid significant adverse environmental impact or considering feasible alternatives to minimise or mitigate the impacts have been sufficiently demonstrated.

4. Pursuant to the provisions of section 4.15(1)(a)(i) of the Environmental Planning and Assessment, consent cannot be granted as the considerations stipulated in Clause 6.16(1)(d) of Sutherland Shire Local Plan 2015 relating to development responding to the natural landform of the site have not been sufficiently demonstrated due to the evident over-excavation required and adverse impact of that excavation
5. Pursuant to the provisions of section 4.15(1)(a)(iii) of the Environmental Planning and Assessment, it is considered that the proposed development has an insufficient internal front boundary setback and this contravenes objectives 2.1(1), (3), (5) and (6) of Chapter 3b of SSDCP 2015 relating to setbacks.
6. Pursuant to the provisions of section 4.15(1)(a)(iii) of the Environmental Planning and Assessment, it is considered that the proposed development fails to satisfy objectives 3.1(2) and (4) of Chapter 2 b of Sutherland Shire Development Control Plan 2015 in that the building siting, design and construction method fails to sufficiently respond to the natural landform of the site or is appropriate for the site topography and fails to minimise earthworks so as to maintain the existing landform and protect the integrity and stability of geological elements in the vicinity of the site.
7. Pursuant to the provisions of Section 4.15(1)(a)(iii) of the Environmental Planning and Assessment, it is considered that the proposed development fails to satisfy the objectives and controls relating to swimming pool setbacks, height out of ground level and drainage resulting in objectives 5.1 (3), and (6) of Chapter 34 of the Sutherland Shire Development Control Plan 2015.
8. Pursuant to the provisions of section 4.15(1)(b) of the Environmental Planning and Assessment, it is considered that the proposed development causes unacceptable and irreversible adverse impact on the natural environment in the locality and that this results in degradation of a rock cliff on the site which was intended to be preserved by means of the Community Management Statement appurtenant to the land title.
9. Pursuant to the provisions of section 4.15(1)(c) of the Environmental Planning and Assessment, it is considered that the proposed development is not suitable for the site as the dwelling is unable to be accommodated entirely within the designated building envelope as identified on the building envelope plan in Part 4 of the Community Management Statement appurtenant to the land title and the asset protection zone that traverses the site contrary to Part 1(a) of the Community Management Statement appurtenant to the land title.

10. Pursuant to the provisions of section 4.15(1)(c) of the Environmental Planning and Assessment, it is considered that the proposed development is not suitable for the site as the rock cliff requires extensive excavation to enable the construction of the dwelling and private open space area, which is contrary to Part 1(h) of the Community Management Statement appurtenant to the land title.

11. Pursuant to the provisions of section 4.15(1)(c) of the Environmental Planning and Assessment, it is considered that the proposed development is not suitable for the site as it necessitates extensive retaining walls to be erected within the Asset Protection Zone that traverses the site contrary to Part 1(b) of the Community Management Statement appurtenant to the land title.

REASON FOR THE DECISION:

As per the reasons for refusal.

VOTES: The decision was unanimous.

The Meeting closed at **7.24pm**.