



Report of Meeting

Sutherland Shire Local Planning Panel

Tuesday, 5 March 2019

6:00pm

Black Box

Sutherland Entertainment Centre

30 Eton Street, Sutherland

SUTHERLANDSHIRE

PANEL: Jason Perica (Chair), Grant Christmas, Jan Murrell and Mark Carleton

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

SSLPP001-19	Proposal:	DA18/1273 - Alterations and additions to existing child care centre
	Property:	Part Lot 104 DP 1159806 (No. 1R) Fauna Place, Kirrawee
	Applicant:	Sutherland Shire Council
	File Number:	DA18/1273

There were no speakers registered.

PANEL DECISION:

That Development Application No. 18/1273 for Alterations and additions to existing child care centre at Part Lot 104 DP 1159806 (No. 1R) Fauna Place, Kirrawee be approved, subject to the conditions contained in Appendix "A" of the report to the Panel meeting of 5 March 2019.

REASON FOR THE DECISION:

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

The proposal is relatively minor, key development standards were complied with and the proposal was suited to the site and area. The works will improve amenity for the child care centre while not compromising neighbouring amenity.

In terms of considering community views, the Panel noted no submissions were received. Granting consent was considered to be in the public interest.

VOTES: The decision was unanimous.

SSLPP002-19	Proposal:	DA18/0192 - Demolition of existing structures and construction of a new dwelling
	Property:	Lot 41 DP 702934 (No. 7) Baliga Avenue, Caringbah South
	Applicant:	MSB Design Pty Ltd
	File Number:	DA18/0192

Matt Beggs spoke for the proposal.

PANEL DECISION:

That Development Application No. 18/0192 for the demolition of an existing dwelling and construction of a new 3 level dwelling at Lot 41 DP 702934 (No. 7) Baliga Avenue Caringbah South be deferred and the applicant be invited to submit details, and any associated amended plans, to demonstrate compliance with the FSR development standard. In that event, the application is delegated for determination to the Manager of Development Assessment and Certification. In the event the proposal does exceed the FSR and a Clause 4.6 Variation is needed, the application shall be determined by the Panel, following a revised assessment by Council staff, which may be determined by electronic means.

REASON FOR THE DECISION:

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

While there is potential debate about whether a Clause 4.6 Request is needed regarding Clause 6.9 of the LEP regarding the Foreshore Area, the Panel was of the opinion that it was prudent to for the Applicant to submit a Clause 4.6 Request. The Panel had regard to the applicant's Clause 4.6 written request regarding the Foreshore Area contravention 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 that development standard, notwithstanding the non-compliance, and that granting consent was in the public interest. In reaching this conclusion, the Panel had regard to the Council staff report, the proposal and observations at the site. It was noted to that the proposal was further from the foreshore than the existing building and the site had limited opportunities for bulk distribution.

While the Panel was conceptually supportive of the proposal, there was an issue about the FSR calculations. It was not clear whether the GFA in the boatshed had been included, and the GFA exclusions for the dwelling warranted checking and confirmation. The Panel was not confident the proposal as submitted could be determined without a Clause 4.6 Request regarding the FSR standard. This matter warranted further analysis by the Council and in the circumstances it was appropriate to defer determination of the application.

VOTES: The decision was unanimous.

SSLPP003-19	Proposal:	DA18/0051 - Demolition of existing commercial structures and construction of a mixed use development containing 2 commercial units and 36 residential dwellings and basement car park
	Property:	Lot 3 Sec 4 DP1688, Lot 4 Sec 4 DP1688 (Nos. 848-850) Old Princes Highway, Sutherland & (Nos. 844-846) Old Princes Highway, Sutherland
	Applicant:	SM844 Developments Pty Ltd
	File Number:	DA18/0051

Speaking for the proposal were Greg Coppin (Architect) and Nicholas Dowman (Planner)

Speaking against the proposal were Spiro Pandelakis, Michael Ryan, Debbie & Warwick Malone and Dr Steve Dawson.

PANEL DECISION:

That pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application No. DA18/0051 for Demolition of existing commercial structures and construction of a mixed use development containing 2 commercial units and 36 residential dwellings and basement car park at Lot 3 Sec 4 DP 1688, Lot 4 Sec 4 DP 1688, (No. 848-850) Old Princes Highway, Sutherland, (No. 844-846) Old Princes Highway, Sutherland is determined by the refusal of development consent for the reasons outlined below.

- a) The proposal fails to comply with the numeric requirement (3:1) and objectives of the floor space ratio development standard under Clause 4.4 of Sutherland Shire Local Environmental Plan 2015. The applicant's written request in accordance with the requirements of Clause 4.6 of SSLEP 2015 is not considered to be well founded and has not shown sufficient environmental planning grounds to justify variation of the development standard in the circumstances of the case.
- b) The proposal fails to satisfy the controls and objectives for amalgamation of land contained within Clause 6.2, Chapter 24 of Sutherland Shire Development Control Plan 2015. Critically, the site does not include No 838 Old Princes Highway Sutherland, failing to achieve the strategic imperatives established for the Sutherland Centre. Insufficient information was submitted to demonstrate that reasonable efforts have been made to achieve successful amalgamation in accordance with Chapter 24 of the DCP.
- c) The proposal fails to comply with the Potential Built Form Plan contained within Clause 4.2(1) and 10.2(1), Chapter 24 of Sutherland Shire Development Control Plan 2015 with specific regard to the setback of the building to the southern side boundary. The lack of amalgamation and proposed massing fails to provide an appropriate planning outcome relative to adjoining land on a visually prominent site. An amalgamated site would provide greater flexibility for a higher form

to the north and modulated form to the south, given the change in adjoining height and FSR standards and some limitations on the adjoining southern site in terms of its titling, transition in planning controls and context of the adjoining southern residential building.

- d) The proposal fails to satisfy Clause 6.16 Urban Design (General) of Sutherland Shire Local Environmental Plan 2015, in that the building design fails to strengthen, enhance or integrate into the existing character of the Sutherland Centre, or contribute positively to its desired future character.
- e) The proposal fails to satisfy Clause 6.17 Urban Design (Residential Accommodation) of Sutherland Shire Local Environmental Plan 2015, in that adverse impacts of the development on the adjoining land have not been minimised, in terms of size, bulk, height, scale and siting, and visual intrusion, particularly relative to the amalgamation pattern and massing guidelines in the associated DCP controls.
- f) The proposal is inconsistent with State Environmental Planning Policy No 65 – Design Quality of Residential Flat Development and requirements of the Apartment Design Guide (ADG), and Councils DCP, with respect to a blank wall on both boundaries, particularly the south, having regard to existing constraints, potential future development and visual prominence of the site.
- g) 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 reasons for the decision are outlined in the decision itself, noting the proposal was refused.

In terms of considering community views, the Panel generally agreed with the summary and response within the Council staff report to the Panel meeting of 5 March 2019.

VOTES: The decision was unanimous.

SSLPP004-19	Proposal:	DA18/0145 - Demolition of existing structures and construction of a residential flat building containing 50 units
	Property:	Lots 2 & 3 DP12701 & Lot 1 DP15909 (No. 681) Old Princes Highway, Sutherland, (No. 683) Old Princes Highway, Sutherland, (No. 24) Belmont Street, Sutherland
	Applicant:	Architecture Design Studio Pty Ltd
	File Number:	DA18/0145

Speaking for the proposal was Pavlo Doroch and Liang Zhang (Applicant).

There were no speakers registered against the proposal.

PANEL DECISION:

That Development Application No. 18/0145 for Demolition of existing structures and construction of a residential flat building containing 50 units at Lot 2 DP 12701, Lot 3 DP 12701, Lot 1 DP 15909 (No. 681) Old Princes Highway, Sutherland, (No. 24) Belmont Street, Sutherland, (No. 683) Old Princes Highway, Sutherland be approved, subject to the conditions contained in **Appendix "A"** of the report to the Panel meeting of 5 March 2019, subject to an additional condition, as below:

1A The parapet exceeding the height standard shall be amended and reduced to fully comply with the height standard. This shall be detailed in the application for a Construction Certificate to the satisfaction of the Certifying Authority.

REASON FOR THE DECISION:

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

The Panel had regard to the applicant's Clause 4.6 written request regarding the Building Height contravention within Clause 4.3 of Sutherland Shire LEP 2015 and formed the view it satisfactorily addressed required matters within Clause 4.6(3) of the LEP (although took the view the height exceedance of the parapet could and should be reduced to comply). The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the Building Height development standard, notwithstanding the non-compliance, and granting consent would be in the public interest. In reaching this conclusion, the Panel had regard the Council staff report, the proposal and observations at the site. It was noted the proposed height contravention was relatively minor (under 2%) and was limited to the minor lift overrun (subject to an additional condition), which did not add apparent bulk to the streetscape or cause adverse impacts to neighbours. The bulk and scale of the proposal (subject to conditions) was consistent with that envisaged by the planning controls and was suited to the site and surrounds.

The comments by the Council's Design Review Panel and Council's architect were noted. The building massing and design were considered reasonable, while the communal open space (used in

site area for FSR) was well positioned for solar orientation and use. The separation from the northern boundary helped to provide mediation in form and scale to Belmont Street, while the eastern setback was acceptable having regard to design measures and orientation.

In terms of consideration of submissions and community views, the issues raised were considered, with the Panel agreeing with the assessment of those issues outlined in the assessment report.

VOTES: The decision was unanimous.

SSLPP005-19	Proposal:	DA17/1589 - Demolition of existing structures and construction of 6 townhouses
	Property:	Lot A DP 382762 (No. 85) Caldarra Avenue, Engadine
	Applicant:	Acrux Developments
	File Number:	DA17/1589

Speaking for the proposal was Peter Couvaras (Architect), Lyndall Wynne (Planner) and William Courtenay (Applicant).

Speaking against the proposal was Angie Wilcock.

PANEL DECISION:

That Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application No. 17/1589 for the demolition of existing structures and construction of 6 townhouses at Lot A DP 382762 (No. 85) Caldarra Avenue, Engadine is determined by the refusal of development consent for the reasons outlined below:

- a) The application does not promote orderly and economic use and development of the land pursuant to Section 1.3(c)(g) of the Environmental Planning and Assessment Act 1979, specifically the narrow site width forcing a cramped design that results in unreasonable and magnified bulk, scale, massing, overshadowing and solar access issues, with consequent orientation over adjoining site boundaries. Similarly, the proposal fails to satisfy Clause 1.2(2)(b) from the Sutherland Shire Local Environmental Plan 2015 as the development fails to protect and enhance the amenity of the adjoining residents.
- b) The development fails to satisfy Control 1.2(1), Part B, Chapter 5 of the Sutherland Shire Development Control Plan 2015 which requires each site to have a minimum lot width of 20m. The subject site has a lot width of only 14.93m. It is considered that the justification to vary the control lacks planning merit.
- c) Insufficient information was submitted to enable a comprehensive assessment of the application against the planning principles contained in *Karavellas v Sutherland Shire Council [2004] NSWLEC 251* relating to isolated development sites. The application has failed to provide sufficient evidence that genuine attempts have been made to amalgamate with No.83 Caldarra Avenue which leaves two narrow lots, resulting in poor design outcomes and magnified impacts to the streetscape and adjoining properties.
- d) Insufficient information was submitted to satisfy Clause 7 of State Environmental Planning Policy No.55 – Remediation of Land, specifically the contamination assessment report did not provide any soil sampling, a review of Council's historical records was not undertaken and/or an assessment of hazardous materials onsite.

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- e) The proposal fails to satisfy Objective (5), Zone R3 Medium Density Residential of Sutherland Shire Local Environmental Plan 2015 as the design of the development does not promote a high standard of urban design and residential amenity in a high quality landscape setting. Similarly, the proposal fails to satisfy Clause 6.16(b)(i)(ii)(e)(g) and 6.17(b)(c)(e)(f) of Sutherland Shire Local Environmental Plan 2015.
 - f) The proposal fails to satisfy Clause 4.3(1)(a)(i)(ii), (b), (c), (d), (e) and (f) Clause 4.4(1)(a), (b), (c) of Sutherland Shire Local Environmental Plan 2015. Despite the development complying with the numerical and prescriptive development standard pursuant to the Clause, the design is not in keeping with the existing scale or is compatible with existing built form of the surrounding developments and results in unacceptable bulk and scale, exacerbated by the narrow site width.
 - g) The proposal fails to satisfy Control 4.2(3), Part B, Chapter 5 of the Sutherland Shire Development Control Plan 2015 as the development will have an unacceptable impact upon an existing large boundary tree, being Tree 1 *Casuarina cunninghamiana*.
 - h) The proposal fails to satisfy Controls 7.2(4)(8), Part B, Chapter 5 and Control 2.2(4), Chapter 36 of the Sutherland Shire Development Control Plan 2015 in that each car parking space does not comply with the minimum internal garage width of 5.7m which, vehicles will not be able to enter and leave in a forward direction in three or less movements due to the narrow garage widths. Insufficient information has been submitted to demonstrate compliance in regard to Australian Standard AS2890.1.
 - i) The proposal fails to satisfy Control 9.2(1), Part B, Chapter 5 of the Sutherland Shire Development Control Plan 2015 as the proposal does not promote Crime Prevention through Environmental Design requirements and principles.
 - j) Insufficient information has been submitted regarding waste management.
 - k) The application will create an undesirable planning precedent particularly due to the non-compliant site width, and granting consent would not be in the public interest.

REASON FOR THE DECISION:

The reasons for the decision are outlined in the decision itself, noting the proposal was refused.

In terms of considering community objections, the Panel generally agreed with the summary and response within the Council staff report to the Panel meeting of 5 March 2019. However, the Panel did not agree the view impacts warranted refusal of the application, given the development of the site was likely in the future (with an adjoining site) and retaining views over the side boundaries in the context of the applicable planning controls should not be expected. Despite this, it is acknowledged a

larger site and skilful design would likely mitigate and reduce these impacts and more likely achieve greater view sharing.

The applicant requested deferral for consideration of new plans and to allow further efforts regarding approaches to the northern neighbour. However, the Panel was concerned with fundamental limitations from the site itself, and the Panel was not confident in the certainty or timeliness in reaching a satisfactory outcome.

VOTES: The decision was unanimous.

The Meeting closed at 8:57pm.