



Report of Meeting

Sutherland Shire Local Planning Panel

Tuesday, 18 June 2019

6:00pm

Black Box Room

Sutherland Entertainment Centre

30 Eton Street, Sutherland

SUTHERLANDSHIRE

PANEL: Jason Perica (Chairperson), Julie Savet Ward, Charles Hill and Kurt Ingle

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.

SSLPP032-19	Proposal:	DA18/0514 - Demolition of existing structures and construction of residential apartment building
	Property:	Lot 21 DP229532, Part Lot 6 DP9513, (No. 3) Wandella Road, Miranda
	Applicant:	Terra Ferma Pty Ltd
	File Number:	DA18/0514

There were no speakers against the proposal.

Speaking for the proposal were Lyndall Wynne and Pavlo Doroch.

PANEL DECISION:

Pursuant to the provisions of Section 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application No 18/0514 for Demolition of existing structures and construction of residential apartment building at Lot 21 DP 229532, Part Lot 6 DP 9513 (No. 3) Wandella Road, Miranda be approved, subject to the conditions contained in **Appendix "A"** of the report, subject to:

- Amendment to Condition 18C to add the following sentence to the end the second paragraph:
"Should the two proposed Water Gums or any other plants on the western side of the development not survive, these shall be replaced by more suitable native tree species, and maintained in good health (Reason: to ensure ongoing survival and maintenance of appropriate trees, including to a future road to the west)".
- Condition 32A be amended to include the following:
(iii) Despite the above, rock cutting, breaking and rock hammering work must only occur between 7am and 5pm Mondays to Fridays only, excluding public holidays (Reason: to allow reasonable work hours, balanced with some respite from works and noise involving high levels of likely disruption to amenity for neighbouring properties).

REASON FOR THE DECISION:

The Panel generally agreed with the environmental assessment within the Council staff report.

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 (reviewed prior to the meeting and in considering the applicants Clause 4.6 submission) and the objectives of the development standard, notwithstanding the non-compliance, and granting consent was in the public interest. In reaching this conclusion, the Panel had regard the applicant's submission, Council staff report, the proposal and observations at the site. Reasonable landscaped area and open space was provided, while an overall improved and increased tree planting would result from the approval.

In terms of overshadowing and amenity impacts on neighbours, these were generally commensurate with impacts to be expected from the prevailing planning controls and were not of such significance to warrant refusal of the application.

While the site was slightly below the minimum site width control in SSDCP 2015, the site dimensions were sufficient and the proposal met the considerations for variation in that DCP.

In terms of consideration of submissions and community views, the Panel agreed with the assessment of the key issues outlined in the assessment report. The proposal was consistent with a form envisaged by the planning controls and impacts were reasonably mitigated by the design (modified during the assessment to address a number of issues) and conditions of consent.

VOTES: The decision was unanimous.

SSLPP033-19	Proposal:	DA18/0676 - Demolition of 3 dwellings, alterations and additions to an existing heritage building to accommodate a commercial use, construction of a residential flat building containing 46 dwellings and in-ground swimming pool and strata subdivision
	Property:	Lots 1, 2, 3 & 4 DP 324080 (Nos. 110 - 116) Flora Street, Sutherland
	Applicant:	John Robert Sammut
	File Number:	DA18/0676

Speaking against the proposal was Elizabeth Simpson.

Speaking for the proposal were Allen Sammut, Sophie Bock, Lyndall Wynne, Cameron Jones and Brandon Wallis

PANEL DECISION:

Pursuant to the provisions of Section 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application No. 18/0676 for Demolition of 3 dwellings, alterations and additions to an existing heritage building to accommodate a commercial use, construction of a residential flat building containing 46 dwellings and in-ground swimming pool and strata subdivision at Lot 1-4 DP 324080 (Nos 110-116) Flora Street, Sutherland be approved, subject to the conditions contained in **Appendix "A"** of the report, with the following amendments:

- A new condition to state:
"1A While the use of the heritage listed building for offices is approved, the details of fire safety and access works to minimise heritage impacts while meeting a performance-based approach to BCA, and associated conservation works shall be to the written satisfaction of the Manager Major Projects prior to the issue of the Construction Certificate and all required works incorporated into the Construction Certificate and completed prior to the issue of the first Occupation Certificate (Reason: to reasonably satisfy requirements of Clause 5.10(10) of SSLEP 2015 and ensure an appropriate conservation outcome for the building and an appropriate use for the building and wider site.."
- Condition 44 be amended to include the following:
(iii) Despite the above, rock cutting, breaking and rock hammering work shall only occur between 7am and 5pm Mondays to Fridays only, excluding public holidays (Reason: to allow reasonable work hours, balanced with some respite from works and noise involving high levels of likely disruption to amenity for neighbouring properties).

REASON FOR THE DECISION:

The following reasons represent the majority view of the Panel (see voting below).

The Panel generally agreed with the environmental assessment within the Council staff report (with one main exception outlined below).

The Panel had regard to the applicant's Clause 4.6 request regarding the maximum Building Height development standard within Clause 6.3 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. In reaching this conclusion, the Panel had regard to the applicant's submission, Council staff report, the proposal and observations at the site. The increased height was a result of site planning to retain the heritage item, including an appropriate curtilage, which was a wider public benefit and mitigated impacts to the western property, while the slope of the land down to the north and the siting and design approach including setbacks and no development to the rear at the western end of the site provided a reasonable and appropriate relationship to the south. The scale was similar to that envisaged by the planning controls and the overall development was consistent with objects of the EPA Act, and represented orderly planning, with an appropriate heritage outcome.

The Panel did not concur with the Council staff report about the use of the heritage listed building being inappropriate (and associated works). The works were very minor and BCA and access issues could be undertaken in a sensitive way, using a performance based approach. However, details should be secured and approved by Council. Moreover, in the context of the whole site and development, commercial offices were an appropriate use for the building and this use had occurred and been approved at the site previously. However, the use is not permissible in the zone and no longer had existing use rights. In this regard, the Panel had regard to Clause 5.10(10) of SSLEP 2015 and formed the view the proposal met the requisite matters in that Clause to permit the proposed use (subject to a condition regarding detailing).

In terms of parking, the proposal met the total parking requirement in SSDCP 2015, while traffic impacts would be consistent with that foreseen with the applicable planning controls. Tree impacts were acceptable, with some removal of trees more than compensated by new planting, which will allow appropriate longer term planting and fauna corridors to the south of the site.

In terms of consideration of submissions and community views, the Panel agreed with the assessment of the key issues outlined in the assessment report. The proposal was generally consistent with a form envisaged by the planning controls and impacts were reasonably mitigated by the design (modified during the assessment to address a number of issues) and conditions of consent.

Julie Savet Ward and Kurt Ingle disagreed with the above for the following reason:

- The building height, form and scale was considered excessive and that the non-compliance with the Height of Buildings development standard in the Sutherland LEP was unacceptable. It was understood that this was principally the result of amalgamation with the site in which the heritage item is located thereby pushing the building mass towards the developable portion of the site however the resultant built form was excessive (especially when viewed from Flora Street), the impacts generated were unacceptable and not in keeping with the future character of the local area.

VOTES: The decision was 2-2, with Jason Perica using his casting vote with Charles Hill to support the decision above. Julie Savet Ward and Kurt Ingle had a dissenting view, although generally favoured approval (and supported the approach to the condition regarding the heritage listed building) but believed a level of the building should be deleted, for reasons outlined above.

SSLPP034-19	Proposal:	DA18/0692 - Demolition of existing structures, construction of multi dwelling housing development containing 6 dwellings with strata subdivision
	Property:	Lot 7 Sec 27 DP802 (No. 4) Kurrajong Street, Sutherland
	Applicant:	Anthony Sean Keogh, Michael Keogh
	File Number:	DA18/0692

Speaking against the proposal were Scott Cadman, Sonja Michels, Jeffery Howell, Andrew Mathas, Laraine Degenhardt, Mercela Bilek and Patricia McCrae.

Speaking for the proposal was Jeff Mead.

PANEL DECISION:

Pursuant to the provisions of Section 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application No. 18/0692 for Demolition of existing structures, construction of multi dwelling housing development containing 6 dwellings with strata subdivision at Lot 7 Sec 27 DP 802 (No. 4) Kurrajong Street, Sutherland be approved, subject to the conditions contained in **Appendix "A"** of the report, subject to the following amendments:

1. The word "minimise" in Condition 14 be amended to "prevent". Also, an additional sentence be included in Condition 14 requiring the Geotechnical report to be provided to Council at the same time as the PCA.
2. Condition 34 be amended to include the following:
 - (iii) Despite the above, rock cutting, breaking and rock hammering work shall only occur between 7am and 5pm Mondays to Fridays only, excluding public holidays (Reason: to allow reasonable work hours, balanced with some respite from works and noise involving high levels of likely disruption to amenity for neighbouring properties).
3. A new condition to state:

The Landscape Plan be amended to include an additional tree in the northern courtyard to Townhouse 2, with details to be provided with the application for a Construction Certificate (Reason: to provide further visual screening between the proposed building and the dwelling(s) to the north.

REASON FOR THE DECISION:

The Panel generally agreed with the environmental assessment within the Council staff report.

The proposed use was specifically permitted with development consent in the zone. The use and general form was also not inconsistent with other forms of development in the area and within the same zoning. The proposal complied with all development standards in SSLEP 2015 and all key controls in the DCP regulating the overall form and scale of the proposal. It was a type of development wholly supported by the planning controls.

In terms of consideration of submissions and community views, the Panel agreed with the assessment of the key issues outlined in the assessment report. The overshadowing impacts on the neighbouring southern property were acceptable and improved compared to alternative development which could have a considerably less southern side setback than proposed. There was a concern raised about impacts on children, although the Panel noted the adjoining southern building was a seniors housing development and there should be a restriction on title and the consent restricting occupation to over 55 year olds. In any event, the resulting amenity impacts were acceptable.

The provision of basement parking was appropriate and meant less areas of the site were affected by driveways, improving opportunities for perimeter landscaping. It also reduced the above-ground bulk, as parking above ground would be exempt from FSR calculations, thereby leading to an otherwise larger above ground building, in an alternative form. There was considerable concern raised by northern neighbours and others about potential damage during construction. However, the proposed basement was located an appropriate distance from the northern neighbour, while conditions of consent, as amended by the Panel, provided a reasonable approach to regulate and mitigate potential impacts. There were suggested changes to conditions by the northern neighbour, some of which were agreed or partially agreed. However, the suggestion for a bond and bank guarantee was beyond the Panel's power. Otherwise, conditions relating to a geotechnical report, construction hours and noise (as amended) reasonably addressed concerns raised, and were as strict or stricter than most other development involving excavation into rock, which is not uncommon.

VOTES: The decision was unanimous.

SSLPP035-19	Proposal:	DA18/1384 - Alterations and additions to existing dwelling
	Property:	Lot 18 DP 6593, (No. 12) Bulls Road, Burraneer
	Applicant:	MSB Design Pty Ltd
	File Number:	DA18/1384

Speaking against the proposal were Peter Baltins, Paul Gallen, Pamela and Andrew Britton
Speaking for the proposal was Matt Beggs.

PANEL DECISION:

Pursuant to the provisions of Section 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application No. 18/1384 for alterations and additions to existing dwelling at Lot 18 DP 6593 (No.12) Bulls Road, Burraneer be approved, subject to the conditions contained in **Appendix "A"** of the report, with the following amendment:

- New Conditions be incorporated to state:

"1A Design Change

The roof design shall be amended to a "flat roof" or flat gabled roof, to minimise the roof height to the maximum practical extent, while still providing a unified design aesthetic and reasonable stormwater disposal, with details to the satisfaction of the Manager Development Assessment and Certification, prior to the issue of a Construction Certificate (Reason: to reduce the height of the building in reasonable consideration of view impacts to the south-west across Bulls Road, while still allowing an appropriate design and stormwater solution).

- ***1B Landscaping***

All new planting in increased landscaped garden beds shall be selected from Council's on-line native plant selector tool, with details in the application for a Construction Certificate (Reason: to improve the landscape outcome of the site, given non-compliance and to provide improved appropriate vegetation and habitat).

REASON FOR THE DECISION:

The Panel generally agreed with the assessment of the proposal, as outlined in the Council staff report.

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 applicant's submission, Council staff report, the proposal and observations at the site. It was noted to that the proposal was no closer overall to the foreshore than the existing building.

The Panel also 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. In reaching this conclusion, the Panel had regard to the applicant's submission the Council staff report, the proposal and observations at the site. The non-compliance arises from a pre-existing situation and the landscaped area is being increased by the proposal, which is a benefit for the site, area and waterway interface.

In terms of consideration of submissions and community views, the Panel generally agreed with the assessment of the key issues outlined in the assessment report. The proposal was consistent with a form envisaged by the planning controls.

The Panel had regard to view impacts and visited several properties to the S-W of the site across Bulls Road. The proposal complied with the FSR and height controls and the view impacts were considered acceptable and to a degree to be reasonably expected from the planning controls. However, through more skilful design, the proposal could reduce the view impact marginally, and this marginal reduction could be important for greater water views for neighbours. This was discussed at the meeting and verbally agreed by the applicant, giving rise to the additional condition regarding the roof outlined above.

VOTES: The decision was unanimous.

The Meeting closed at **8.15pm**.