



Report of Meeting

Sutherland Shire Local Planning Panel

Tuesday, 2 July 2019

6:00pm

Black Box Room

Sutherland Entertainment Centre

30 Eton Street, Sutherland

SUTHERLANDSHIRE

PANEL: Charles Hill (Chairperson), Julie Savet Ward, Jan Murrell and Mark Carleton

STAFF IN ATTENDANCE: Manager, Major Development Assessment (Mark Adamson)

DISCLOSURES OF INTEREST

File Number: 2015/14239

There were no declarations of interest.

SSLPP036-19	Proposal:	DA18/1232 - Partial demolition of existing structures, construction of on-site parking, landscaping with strata subdivision
	Property:	SP8573 (No. 126) Elouera Road, Cronulla
	Applicant:	Geoffrey Dignam, Paul Mamo
	File Number:	DA18/1232

There were no speakers against the proposal.

Speaking for the proposal were David Gore, Nathaniel Murray and Geoffrey Dignam.

PANEL DECISION:

THAT:

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act 1979, Development Application No. 18/1232 for the partial demolition of existing structures, construction of on-site parking, landscaping with strata subdivision at S/P 8573 126 Elouera Road, Cronulla is determined by the refusal of development consent for the reasons outlined below:

1. The proposed development application is considered unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposal fails to satisfy *Sutherland Shire Local Environmental Plan 2015* Clause 6.14 Landscaped Areas development standard and the objectives. Further, the submitted Clause 4.6 variation fails to demonstrate why it is unreasonable or unnecessary to comply.
2. The proposed development application is considered unacceptable pursuant to the provisions of Section 4.15(1)(a)(i) of the *Environmental Planning and Assessment Act 1979* in that the proposal fails to satisfy *Sutherland Shire Local Environmental Plan 2015* R4 High Density Residential zone objectives.

3. The proposed development application is considered unacceptable pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that the proposal fails to satisfy *Sutherland Shire Development Control Plan 2015* Chapter 6 Clause 2.2.5 and Chapter as car parking is located within the primary street frontage with no setback.
4. The proposed development application is considered unacceptable pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that the proposal fails to satisfy *Sutherland Shire Development Control Plan 2015* Chapter 6 Clause 4.1 Objective 5, to *minimise the impact of driveways and parking areas on existing landscaping, landform and streetscape, in terms of siting and choice of materials.*
5. The proposed development application is considered unacceptable pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that the proposal fails to satisfy *Sutherland Shire Development Control Plan 2015* Chapter 6 Clause 4.2.4 as all rear boundary tree planting is proposed for removal and no replacement tree planting is proposed along this boundary.
6. The proposed development application is considered unacceptable pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that the proposal fails to satisfy *Sutherland Shire Development Control Plan 2015* Chapter 6 Clause 10.2.9 as the B.85 vehicle is not able to enter and leave the site in a forward direction.
7. The proposed development application is considered unacceptable pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that the proposal fails to satisfy *Sutherland Shire Development Control Plan 2015* Chapter 34 Part B Clause 2.1.18 as the hard surface areas within the street frontage exceed 50%.
8. The proposed development application is considered unacceptable pursuant to the provisions of Section 4.15(1)(a)(iii) of the *Environmental Planning and Assessment Act 1979* in that the proposal fails to satisfy *Sutherland Shire Development Control Plan 2015* Chapter 36 Clause 2.1.1 – 2.1.2 as the development does not provide the provisions of on-site car parking space in accordance with AS2890.1 and the dimensions and manoeuvring requirements of the 85th percentile vehicle.
9. The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in that the proposal would have an adverse environmental impact upon the locality due significant removal of landscaped area to be replaced with hardstand and the associated increased surface run-off.
10. The proposed development is considered unacceptable pursuant to the provisions of Section 4.15(1)(b) of the *Environmental Planning and Assessment Act 1979* in that the proposed development in terms of the vehicular parking design is not suitable for the site.

REASON FOR THE DECISION:

The subject land is located within Zone R4 High Density Residential pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015.

The proposed development, being works to an existing residential flat building and Strata subdivision is permissible within the zone with development consent from Council.

The Panel notes in particular that the proposal removes landscaped area to provide car parking and that manoeuvring of vehicles would fail to satisfy the requirements of AS 2890.1 and SSDCP2015.

In that regard the proposal results in a significant variation to the Landscaped Area development standard. The development proposes a landscaped area of 15.7% (110.2m²), which fails to provide the minimum required 30% (209m²) by approximately 47.2% (98.8m²).

Whilst the Panel acknowledged the owners commitment to improve the property this variation has been considered by the Panel and deemed not acceptable for the reasons outlined within the Council's assessment report.

Other issues raised in the Council's assessment report related to car parking and manoeuvrability, BCA compliance and stormwater management

The Panel is in agreement with Council's assessment of those issues.

In response to public exhibition, no submissions were received.

The application has been assessed having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

Following assessment of Development Application No. 18/1232, the Panel considers that the proposed development cannot be supported for the reasons outlined in this Council's assessment report.

VOTES: The decision was unanimous.

SSLPP037-19	Proposal:	DA17/0218 - Demolition of existing structures and construction of a multi dwelling housing development containing 7 dwellings
	Property:	Lot 2 DP603167 & Lot 1 DP603167 (Nos. 5 & 5A) Gannons Road, Caringbah
	Applicant:	Justine Louise Lea
	File Number:	DA17/0218

Speaking against the proposal were Ross Howie (on behalf of Councillor Provan), Michelle Evans, Michael & Cherie Feher, Barbara Hayman, and Councillor Michael Forshaw.

Speaking for the proposal were Justine McDermott, Robert Chapman-Malec, Anthony Boskovitz, Brandon Wallis and Lyndall Wynne.

PANEL DECISION:

THAT:

Pursuant to the provisions of Section 4.16 and 4.17 of the Environmental Planning and Assessment Act 1979, Development Application No17/0218 for demolition of existing structures and construction of a multi dwelling housing development containing 7 dwellings at Lot 1 DP 603167, Lot 2 DP 603167 5A Gannons Road, Caringbah, 5 Gannons Road, Caringbah is determined by the refusal of development consent for the reasons outlined below.

1. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979 on the basis that the development fails to achieve compliance with Chapter 5 Cl 1.2.1 of the Sutherland Shire Development Control Plan 2015 resulting in unacceptable impacts on the neighbouring properties.
2. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(b) of the Environmental Planning and Assessment Act 1979 on the basis that the development will adversely impact on the built environment and the amenity of the locality with respect to the existing streetscape character and visual intrusion of built form when viewed from adjacent properties.
3. The application is considered unacceptable pursuant to the provisions of s.4.15(1)(e) of the Environmental Planning and Assessment Act 1979 on the basis that approval of the development is not in the public interest, as the development would have unacceptable impacts on the streetscape character and the amenity of the neighbouring properties.

REASON FOR THE DECISION:

On 18 September 2018, the SSLPP deferred the determination of this application as the development resulted in unacceptable impacts on the neighbouring properties including visually intrusive built form, overshadowing and privacy concerns.

The SSLPP at that time, afforded the applicant additional time to modify the development to comply with the 60% depth rule or present a more skilful design to resolve these issues.

The revised plans were advertised in accordance with the provisions of Chapter 42 of Sutherland Shire Development Control Plan 2015 (SSDCP 2015).

A list of the all submissions received in relation to the revised plans is provided in the Council's assessment report.

The issues raised include but not necessarily limited to narrowness of the driveway, waste storage and collection, documentation errors, decreased property values, noise, disabled access, and lodgement of revised plans outside the time frame set by the previous Panel.

The Panel is in general agreement with the Council's assessment of these issues

The Panel notes in particular that the applicant has opted not to strictly apply the 60% depth rule in the way that would be applied across this site,

In that regard whilst the revised scheme somewhat reduces the overall visual bulk and scale by further articulating the buildings and containing the second storeys of Townhouses 3 and 7 within an attic space, there are some increased adverse impacts on neighbouring properties, the scheme also remains non-compliant with the 60% depth rule, and does not necessarily present a more *skilful design*, as requested by the previous Panel.

In that regard the Panel notes in particular that the revised site layout positions 3 x 2 storey dwellings in the centre of the site instead of 2 x 2 storey dwellings which was originally proposed.

Furthermore, the Panel notes that even though the upper storey of Townhouse 3 and 7 are contained within an attic, each building is 6.4m high.

The Panel noted support from nearest Neighbour objectors, Councillors (and Council's Assessment Report) for a more skilful design in particular a reduced single level type development not fully identified but likely mid to westerly end of block such that units 6 and 5 and or possibly unit 4 are reduced in scale, height and bulk to single level which may also achieve the 60/40 compliance issue.

The Panel also expressed concerns in relation to the documentation provided, and in particular the difficulty in determining levels, as they related to neighbouring properties.

During discussions the applicants acknowledged the concerns of the residents, and a willingness to make further changes to the design with a view to minimising the resident's concerns.

It is not the role of the Panel to redesign the proposal, and in addition, it was not appropriate for the Panel to accept and or consider amended plans, until such time as a formal application had been submitted and assessed by Council staff.

VOTES: The decision was unanimous.

SSLPP038-19	Proposal:	DA18/0334 - Demolition of existing structures and construction of a dual occupancy with strata subdivision and boundary adjustment
	Property:	Lot 1 DP528238, Lot 102 DP 830803 (Nos. 54A & 54) Woodlands Road, Taren Point
	Applicant:	Davina Constructions Pty Ltd
	File Number:	DA18/0334

Speaking on behalf of the applicant was Paul Kamper

PANEL DECISION:

THAT:

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act 1979, Development Application No. 18/0334 for demolition of existing structures and construction of a dual occupancy with strata subdivision and boundary adjustment at Lot 1 DP 528238, Lot 102 DP 830803 54 and 54A Woodlands Road, Taren Point is determined by the refusal of development consent for the reasons outlined below.

1. Pursuant to clause 4.6 of the Sutherland Shire Local Plan 2015 9"the LEP"), the Panel considers that the written request in relation to the variation of the landscaping area does not adequately address the required matters in relation to Clause 4.6(3) of the LEP. The Panel is of the view that the clause 4.6 variation has not demonstrated that compliance with the development standard is unnecessary and unreasonable in this instance, and that there is sufficient environmental planning grounds to justify contravening the development standard. Further the Panel considers that the proposed development will not be in the public interest as it is inconsistent with the objectives of the particular standard and those of the E4 Environmental Living Zone.
2. In addition:
 - 2 (a) The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(l) 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.
 - 2 (b) The application is considered unacceptable pursuant to the provisions of s.4.15 (1) (a) (l) 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 in so far as it relates to the foreshore area within the E4 Zoning
 - 2 (c) The application is considered unacceptable pursuant to the provisions of 4.15(1)(a)(l) of the Environmental Planning and Assessment Act 1979 in that the proposed development is inconsistent with the objectives of the E4 Environmental Living Zone under Sutherland Shire Local Environmental Plan 2015.

- 2 (d) The application is considered unacceptable pursuant to the provisions of s.4.15 (1) (a) (l) of the Environmental Planning and Assessment Act 1979 in that insufficient information was submitted to demonstrate that the development satisfies the provisions of Clause 4.1 of the Sutherland Shire Local Environmental Plan 2015, specifically ensuring that the allotments have sufficient area for landscaping.
- 2 (e) The application is considered unacceptable pursuant to the provisions of s.4.15 (1) (a) (l) 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 as it relates to the foreshore area within the E4 zoning.
- 2 (f) The application is considered unacceptable pursuant to the provisions of s.4.15(1)(a)(l) 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.
- 2 (g) 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.
- 2 (h) 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 subject land is located within Zone E4 Environmental Living pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015.

The proposed development, being a boundary adjustment and a dual occupancy, is a permissible land use within the zone with development consent.

The Panel notes that in response to public exhibition, no submissions were received.

The proposal includes a variation to the landscaped area development standard in relation to 54 Woodlands Road and the lot width standard for 54A Woodlands Road.

There are also SSDCP 2015 variations with regard to the front setback of both the existing dwelling on 54 and the proposed dual occupancy at 54A.

The Panel had regard to the applicant's Clause 4.6 request regarding the minimum Landscaped Area development standard within Clause 6.14, and Clause 4.1 related to Lot width of Sutherland Shire LEP. 2015.

The Panel considers that the applicant's submission on relation to the Clause 4.6 variation fails to demonstrate that compliance with the landscape area development standard is unnecessary and unreasonable in this instance. It also fails to demonstrate sufficient environmental planning grounds to justify varying the development standard.

The Panel notes in particular that there has been a gradual deterioration of the amount of landscaping provided along the water front and its replacement with hard surface areas, contrary to the objectives of the E4 Environmental Living Zone, and previous approvals of Council.

In that regard the proposal is considered to not be in the public interest as the proposal fails to comply with the objectives of both the landscape area and those of the E4 Environmental Living Zone.

The Panel also is also of the view that given these deficiencies, and the inability to satisfy the objectives of the landscape area in such a sensitive zone as that of the E4 zoning, that the site is also unsuitable for the use that is proposed in this application.

The application has been assessed having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

Following assessment, Development Application No. 18/0334 is not supported for the reasons outlined in this report.

VOTES: The decision was unanimous.

SSLPP039-19	Proposal:	DA18/1485 - Alterations and additions to existing Clubhouse
	Property:	Lot 1054 DP 752064, (No. 421) Princes Highway, Kareela
	Applicant:	Gary Bowden
	File Number:	DA18/1485

There were no speakers registered.

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. 18/1485 for alterations and additions to existing clubhouse at Lot 1054 DP 752064 (No. 421) Princes Highway, Kareela be approved, subject to the conditions contained in **Appendix "A"** of the report.

REASON FOR THE DECISION:

The subject land is located within Zone RE1 – Public Recreation pursuant to the provisions of Sutherland Shire Local Environmental Plan 2015.

The proposed development, being an existing community facility, is a permissible land use within the zone with development consent from Council.

In response to public exhibition, no submissions were received.

The Panel notes in particular that the application was referred to Council's Aboriginal Heritage officer who advised that it should be clarified that there are no claims current on the land as provided under the Aboriginal Land Rights Act 1983 (ALR Act).

In that regard the applicant on 17 October 2018 submitted a request to the Office of the Register and received a response on 27 May 2019 suggesting that contact with the La Perouse Local Aboriginal Land Council (LPLALC who made a land claim on 20 August 2010) be undertaken to discuss the matter.

The Panel notes that Council has identified the circumstances and consequences of the ALR Act within the leasing conditions.

According to Council's assessment report, this is an adopted manner in which Council administers this issue.

The assessment report also advises that leasing of the property includes provisions that should the land be found to be claimable within the meaning of the ALR Act, the land and any improvements

upon it will be transferred to the relevant Local Aboriginal Land Council and the lease will be terminated from the date of the Minister's grant of the claim without compensation for costs invested by the lessee.

The application has been assessed by the Council and the Panel having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979.

The Panel is of the view that the application will not result in any significant impact on the environment or the amenity of nearby residents.

VOTES: The decision was unanimous.

The Meeting closed at **8:30pm**.