Business Paper

Council Meeting

Tuesday, 18 April 2017
6:30pm

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

1. ACKNOWLEDGEMENT OF COUNTRY

2. OPENING PRAYER

3. APOLOGIES

4. DISCLOSURES OF INTEREST

5. CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

6. PRESENTATIONS

7. MAYORAL MINUTES

8. REPORTS OF THE CORPORATE GOVERNANCE COMMITTEE HELD ON 3 APRIL 2017
   GOV020-17  Cash Payments & Investments Report - February 2017
   GOV021-17  Visual Identity

9. REPORTS OF THE SHIRE SERVICES COMMITTEE HELD ON 3 APRIL 2017
   SER020-17  Proposed Easement for Drainage Over Community Land - Various Lots
   SER021-17  Council Leisure Centres Natural Gas Price Increase Mitigation Strategies

10. REPORTS OF THE SHIRE INFRASTRUCTURE COMMITTEE HELD ON 3 APRIL 2017
    INF013-17  Sutherland Shire Football Club Proposed Facility Development - 244R The
               Boulevarde, Miranda
    INF014-17  Results of Community Consultation for the Renaming of Green Hills
               Parklands to Marang Parklands

11. REPORTS OF THE SHIRE PLANNING COMMITTEE HELD ON 3 APRIL 2017
    PLN027-17  Draft Infrastructure and Education State Environmental Planning Policies
    PLN028-17  Standard of Fire Safety at Kareela Shopping Centre
    PLN029-17  IHAP012-17 - Demolition of Existing Structures and Construction of 9
               Townhouses with Associated Landscaping and Front Fence - Burraneer Bay
               Road, Burraneer (DA16/0277)
    PLN030-17  Results of Public Exhibition of Planning Proposal SSLEP2015 Amendment 7
               (SSLEP2015 Amendment "Other Policy Matters")
12. REPORTS FROM OFFICERS
   COR043-17  Report and Minutes of the Meetings of the Sutherland Traffic and Traffic
              Safety Committee and Consultative Traffic Forum held on Friday, 7 April
              2017
   COR044-17  Further Report: Process Refinements in Development Assessment - Panels
              and Determinations

13. PRESENTATION OF PETITIONS

14. QUESTIONS

15. NON AGENDA ITEMS

16. CONSIDERATION OF BUSINESS IN CLOSED SESSION

17. CONFIDENTIAL REPORTS OF THE SHIRE INFRASTRUCTURE COMMITTEE HELD ON 3
    APRIL 2017
   INF011A-17  T685/16 The Ridge Sports Complex - Open Space and Golf Course
                Maintenance

18. CONFIDENTIAL REPORTS FROM OFFICERS
GOV020-17  CASH PAYMENTS & INVESTMENTS REPORT - FEBRUARY 2017

EXECUTIVE SUMMARY

- This report provides details of Council’s investment performance for the period ending 28 February 2017, along with presenting cash and investment balances and diversification.
- Council may invest funds that are not, at any particular time, required for any other purpose. Investment of these funds must be in accordance with relevant legislation and regulations and in accordance with Council’s Policy for Investment of Cash Balances. Details of these investments must be reported to Council monthly.
- The return on Council’s portfolio to 28 February 2017 was 3.03% compared to the benchmark of 1.83%.
- All investments have been made in accordance with legislative requirements and within relevant Council policy.

COMMITTEE RECOMMENDATION

That the information concerning Bank Balances and Investments held as at 28 February 2017, be received and noted.
GOV021-17 VISUAL IDENTITY

EXECUTIVE SUMMARY

- Council resolved at its meeting of 20 March 2017 to defer consideration of this report as the final logo files were not available.
- The report provides information regarding the proposed minor changes to the Council logo to improve visual identity.
- Since 1906 Council has periodically reviewed and updated its logo to remain relevant to current circumstances. The current version of Council’s logo presents difficulties in translating to a digital platform and should be evolved to maintain identity and relevance.
- Proposed changes to Council’s logo are minor and retain the image of Captain Cook. Further work on Council’s visual identity will be undertaken within Council’s Community Strategic Planning framework.

COMMITTEE RECOMMENDATION

THAT:

1. Minor updates to Council’s logo, as detailed in this report, retaining the prominent image of Captain Cook, be endorsed.

2. Council’s Style Guide be updated accordingly.
REPORTS OF THE SHIRE SERVICES COMMITTEE HELD ON 3 APRIL 2017

SER020-17 PROPOSED EASEMENT FOR DRAINAGE OVER COMMUNITY LAND - VARIOUS LOTS

EXECUTIVE SUMMARY

• In accordance with Council's development consents DA16/1187, DA16/0209, DA16/1464 and DA16/0835 the owners are required to obtain drainage easements for the discharge of stormwater from their property into the nearest Council drainage system located downhill from their development.

• The easements are to be located on Council owned Community classified land at:
  - 1 Fenton Avenue, Caringbah (Lot 2 DP225559)
  - 2 Gosby Avenue, Miranda (Lot 28 DP 26569)
  - 19R Edward Avenue, Miranda (Lot 25 DP 30529) known as Edward Avenue Reserve
  - 23B Grevillea Grove, Heathcote (Lot 161 DP16127)

• The compensation payable to Council for encumbering Community land with a drainage easement has been calculated.

• The property owner will be responsible for all costs associated with the granting of the easement including advertising, survey and legal costs. Terms favourable to Council will be negotiated with the adjoining property owner to the satisfaction of the General Manager.

COMMITTEE RECOMMENDATION

THAT:

1. An Easement for Services (Drainage) be granted over Council land described as 1 Fenton Avenue, Caringbah (Lot 2 DP225559) in favour of 12 Yathong Road, Caringbah (Lot 53 DP 25104) at terms and conditions to the satisfaction of the General Manager.

2. An Easement for Services (Drainage) be granted over Council land described as 2 Gosby Avenue, Miranda (Lot 28 DP 26569) in favour of 144 Karimbla Road, Miranda (Lot A DP 35612) at terms and conditions to the satisfaction of the General Manager.

3. An Easement for Services (Drainage) be granted over Council land described as 19R Edward Avenue, Miranda (Lot 25 DP 30529) in favour of 20 Renown Avenue, Miranda (Lot 25 DP 30529) at terms and conditions to the satisfaction of the General Manager.

4. An Easement for Services (Drainage) be granted over Council land described as 23B Grevillea Grove, Heathcote (Lot 161 DP16127) in favour of 52 Bottle Forest Road, Heathcote (Lot 153 DP321396) at terms and conditions to the satisfaction of the General Manager.

5. In accordance with the Power of Attorney dated 6 July 2016 BK 4710 No. 28, the General Manager execute any necessary documentation to give effect to these resolutions.
EXECUTIVE SUMMARY

- An unprecedented increase in the price of natural gas by 220%, a key energy source for the Leisure Centres, will result in approximately $500,000 of additional cost in 2017/18.
- To mitigate this increase three strategies (1, 2 and 3); partially passing through the increases, marginally reducing pool temperatures and adopting the state wide method of support to Department of Education swim programs; will be implemented which will result in an increase in income and a reduction in expenditure, being a net gain of $462,500.
- The implementation of strategies 1, 2 and 3 will result in a shortfall of $37,500 in the operating budget which will remain in the 2017/18 Leisure Centre budget.
- Rate subsidies per patron will still remain relatively high for Engadine and Caringbah Leisure Centres, $4.84/patron and $2.56/patron respectively, and at $0.13/patron at Sutherland Leisure Centre, post implementation of these strategies.
- Two additional strategies (4 and 5) which amend service levels at the outdoor pools have been identified for community consultation, which will also provide an opportunity to gather feedback on the differentiation of the centres through the provision of centre specific attractions.
- Medium term opportunities reliant on capital funding to reduce energy consumption or increase income to offset gas price increases (strategies 6 and 7) have also been considered and further investigation proposed.

COMMITTEE RECOMMENDATION

THAT:

1. Council note Strategies 1, 2 and 3 which provide partial mitigation to the $500,000 increase in operating costs of the Leisure Centres in 2017/18 due to the rising price of natural gas.

2. A community information session and survey be endorsed to obtain feedback on proposed Strategy 4.

3. A report is provided to Council regarding Strategy 5 on the proposed amended levels of service at outdoor pools and the provision of specific attractions to differentiate centres.

4. Pending the undertaking of technical investigation and a return on investment analysis, Strategies 6 and 7, Council be advised of opportunities to reduce on-going energy costs and increase income at the Leisure Centres.

5. As part of Strategy 7, Council investigate the options of non-gas energy services.
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<td>6.</td>
<td>Investigations be made to work with other Councils and organisations to achieve the best possible energy pricing options for its leisure facilities.</td>
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<td>7.</td>
<td>The investigations in regard to point 6 be reported back to Council within a 6 month period.</td>
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<td>8.</td>
<td>Staff provide a strategy to work with existing users and the general public at Engadine Leisure Centre.</td>
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INF013-17 SUTHERLAND SHIRE FOOTBALL CLUB PROPOSED FACILITY DEVELOPMENT - 244R THE BOULEVARDE, MIRANDA

EXECUTIVE SUMMARY

- The Sutherland Shire Football Club (SSFC), the Sutherland Sharks, are a National Premier League Club in the Football NSW Premier League Competition.
- The SSFC have leased Field 1 at Seymour Shaw Park from Council for several decades and in mid 2000's installed upgraded floodlighting and a synthetic football field.
- The SSFC are seeking Owner’s Consent to lodge a Development Application (DA) to proceed with a $1.4m redevelopment of the gymnasium, change rooms and clubhouse on the leased site at Seymour Shaw Park, Miranda.
- The proposed development application has a number of outstanding issues, including impact on trees on the site. It is therefore recommended that SSFC address these matters prior to Owner’s consent being given by the General Manager.

COMMITTEE RECOMMENDATION

That Owner’s Consent be granted for the proposed redevelopment of the gymnasium, change rooms and clubhouse leased to the Sutherland Shire Football Club, Field 1 at Seymour Shaw Park, Miranda subject to the General Manager being satisfied that the development is financially viable, with no financial impacts on Council, and that all outstanding matters raised in the Pre Development Application Discussion have been adequately addressed.
EXECUTIVE SUMMARY

• Council resolved at its meeting of 19 December 2016 (INF009-17) to endorse the renaming of Green Hills Parklands to Marang Parklands and undertake community consultation prior to making a submission to the Geographical Names Board.

• Community consultation has been undertaken which resulted in the receipt of three submissions not in support of the proposal.

• The Aboriginal Advisory Committee was also consulted and is in support of the proposal.

• It is considered that the submissions are generally not representative of the wider community and that Council should proceed with the proposal to change the name of Green Hills Parklands to Marang Parklands.

COMMITTEE RECOMMENDATION

THAT:

1. Marang Parklands be endorsed as the new name for Green Hills Parklands.

2. A submission be made to the NSW Geographic Names Board for the naming of Marang Parklands.

3. If approved, appropriate signage be installed at the site and any future reference to the area be Marang Parklands.
EXECUTIVE SUMMARY

- NSW Planning and Environment is exhibiting two draft State Environmental Planning Policies (SEPP) until 7 April 2017 being an amendment to State Environmental Planning Policy (Infrastructure) 2007, and the new State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017.

- Changes to the Infrastructure SEPP provide greater flexibility in the location and delivery of public infrastructure and transfer educational provisions into the new Education SEPP. The new Education SEPP seeks to make it easier and faster for education and child care providers to build facilities.

- While the majority of proposed changes to the planning framework set out in the draft SEPPs are supported, there are a few with the potential to jeopardise neighbourhood character and lessen local councils’ control of local development outcomes, and these are not supported.

- Given the timing of the exhibition period, Council officers have prepared a draft submission explicitly stating that the views expressed are those of Council staff, which has been forwarded to NSW Planning and Environment. The draft submission is attached to this report for Council endorsement.

COMMITTEE RECOMMENDATION

That the draft submission to NSW Planning and Environment concerning the implications of reforms to State Environmental Planning Policies attached to this report as Appendix A, be endorsed, subject to the following changes being made in relation to the Education SEPP:

a. Amend Point 2 to conclude that if childcare centres are to be complying development, they must be required to meet the principal development standards that apply to the zone; and to raise concern that where childcare centres cease business the neighbours will be subject to alternative use of buildings exacerbating amenity impacts.

b. Correct Point 4 with the final sentence to read “It is Council's view that home based child care on bushfire prone land should not be included as complying development in the Codes SEPP.”

c. More emphasis be given to parking and traffic control in relation to childcare centres and schools in Council's Submission.
EXECUTIVE SUMMARY

- As a result of concerns for public safety, Council called for a report detailing the installation, adequacy and maintenance of fire safety measures at Kareela Shopping Centre which has been undertaking substantial alterations and additions.
- Works at the site are being supervised by a Private Certifier who has confirmed that the shopping centre is compliant with fire safety requirements.
- On the basis of these inspections by and certificates issued by the Private Certifier no further intervention is required by Council at this stage.

COMMITTEE RECOMMENDATION

THAT:

1. The report on Fire Safety at Kareela Shopping Centre be received and noted.

2. A report be prepared for the Council meeting of 15 May 2017 as to:
   (i) non-compliance by the developer of the Kareela Shopping Village with the conditions of consent, including those imposed by Roads and Maritime Services (RMS); and
   (ii) enforcement action taken by Council as a result of any breach or breaches of the conditions of consent.

3. The Report include non-compliance with:
   (i) the Schedule of Works for the remediation of the adjacent Bush Reserve prepared by Council’s Bushcare Officer;
   (ii) the requirements for environmental site management;
   (iii) the Schedule of external landscaping works;
   (iv) the Schedule of external roadworks (including the installation of a roundabout at the intersection of Freya Street and Siandra Drive Kareela, and as well as the installation of appropriate signage in both streets); and
   (v) requirements for the notification of, and consultation with, relevant stakeholders, including affected residents and businesses.

4. The Report include Council’s expectations as to the timetable for the satisfactory compliance by the developer with outstanding conditions of consent and the satisfactory resolution of current compliance issues.

5. Councillors receive information in regards to the role of private certifiers.
EXECUTIVE SUMMARY

- This application was referred to the Independent Hearing and Assessment Panel (IHAP) at the request of Councillors Provan, Forshaw and Simone.
- The application is for the demolition of existing structures and construction of 9 townhouses with associated landscaping and front fence at the above property.
- The subject site is located on Burraneer Bay Road, between the T intersection to the west with Craig Street and the intersection with Woolooware Road to the east.

COMMITTEE RECOMMENDATION

THAT:

1. Development Application No. 16/0277 for the demolition of existing structures and construction of 9 townhouses with associated landscaping and front fence at Lot 20 DP 6779, Lot 21 DP 6779, Lot 22 DP 6779 (Nos. 92, 94 & 96) Burraneer Bay Road, Burraneer be deferred to provide the applicant with the opportunity to address the following issues:
   a) The DA plans (including architectural, landscaping and stormwater design drawings) are to be amended to ensure consistency and accuracy.
   b) The depiction of the TPZ (tree protection zone) of the significant trees proposed by Council staff to be retained (both on the subject and adjoining sites) and that of the neighbouring residences are to be accurately depicted on the architectural drawings and confirmation is to be obtained from an appropriately qualified practising arborist that the DA design allows for retention of those trees, taking into account the matters raised in the report of Peter Castor of Tree Wisemen Australia Pty Ltd dated 15 March 2015.
   c) The applicant is to supply a report by a certified practising engineer that stormwater on the site is adequately managed by the proposed hydraulic design (or any amendment to that design) having regard to accepted engineering standards with specific attention to:
      i. the size of the pipe on and within adjoining stormwater easements;
      ii. stormwater flows onto the property from the west;
      iii. ensuring all areas of the site have appropriate storm and rainwater collection;
      iv. the capacity of the proposed stormwater detention tanks, pit levels and discharge levels;
      v. collection of stormwater along the eastern boundary;
      vi. available fall along the proposed path of stormwater through the site
      vii. consistency between the detention tank as depicted in cross-section and plan form;
viii. whether a “credit” for rainwater capture (by rainwater tanks) is appropriate having regard to the available means of reusing that water, and the adequacy of the system to cater for a 1:100 year event (having regard to Council’s standards).

d) The bedrooms at Level 1 on the eastern side of the development are to be reversed so that their balconies face west over the proposed driveway (and not to the east), with associated internal re-organisation to also ensure adverse privacy impacts do not arise to the east, by appropriate window placement and details.

e) The roller doors to the rear courtyards on the Eastern elevation of the development (to the rear of proposed parking areas) are to be replaced by solid sliding doors (not glass) of a maximum width of 2 m (with any windows to have a sill height exceeding 1.5 m), to avoid adverse privacy impacts and impacts from car headlights.

2. Those residents who have previously lodged objections be permitted for a period of 14 days from the date of notification of information addressing the issues raised in the Shire Planning Committee Meeting held on 3 April 2017, to make further submissions on the amended plans and/or submit their own independent reports from appropriately qualified professionals.

3. A further report be prepared by Council officers for the May meeting of the Shire Planning Committee outlining how the issues have been addressed, with an appropriate recommendation for the determination of the application.
PLN030-17  RESULTS OF PUBLIC EXHIBITION OF PLANNING PROPOSAL SSLEP2015 AMENDMENT 7 (SSLEP2015 AMENDMENT "OTHER POLICY MATTERS")

EXECUTIVE SUMMARY

• Council resolved at its meeting of the 20 March 2017 that this report be deferred for discussion to the Council Meeting to be held on 18 April 2017.

• Community consultation for the Planning Proposal known as SSLEP2015 Amendment ‘Other Policy Matters’ addressed a number of issues that arose during the finalisation of SSLEP2015 and is now complete.

• Sixty-two submissions were received, including four from public authorities. A third of the submissions object to increasing the height limit for development on school sites. There were also some objections to the amendments to the dual occupancy clauses, the removal of some items from the Heritage Schedule of the LEP, the rezoning of neighbourhood shops B1 and the rezoning of 48-50 Clio Street, Sutherland and 7 Preston Avenue, Engadine.

• Having considered the issues raised in submissions, it is recommended that the Planning Proposal proceed as exhibited.

COMMITTEE RECOMMENDATION

THAT:

1. Council formally request Parliamentary Counsel to prepare and make a legal instrument to amend SSLEP2015 in accordance with the Planning Proposal “Amendment 7” (now known as SSLEP2015 Amendment “Other Policy Matters”).

2. On receipt of the Opinion of Parliamentary Counsel’s Office that the legal instrument can be made, pursuant to Clause 400 of the Local Government (General) Regulations 2005, the Local Environmental Plan be executed under the Common Seal of the Council of the Sutherland Shire in the presence of the Mayor and General Manager.
Attachments: Appendix A and Appendix B

EXECUTIVE SUMMARY

- Meetings of the Sutherland Traffic and Traffic Safety Committee and Consultative Traffic Forum were held on 7 April 2017.
- The Minutes of the meetings are below.

REPORT RECOMMENDATION

THAT:

1. The decisions contained in the Minutes of the Sutherland Traffic and Traffic Safety Committee Meeting held on 7 April 2017 be noted.

2. The recommendation contained in the Minutes of the Consultative Traffic Forum Meeting held on 7 April 2017 be adopted.
PRESENT: Councilor Croucher (Chairperson), together with Councillor McLean, Mr Neil McCormack (representing Mr Lee Evans, MP), Mr Mike Schrafft (representing Mr Mark Speakman, MP), Senior Constable Rachel King (representing the NSW Police, Sutherland Local Area Command), Ms Tanmila Islam (representing Roads and Maritime Services) and Mr Ayhan Askin (representing Transdev NSW).

Staff in attendance were Traffic Engineer (Cristian Vasquez), Traffic Engineer (Warwick Mertell) and Development Panels Coordinator (Karin Jones).

APOLOGY: Apologies tendered on behalf of Eleni Petinos MP, Lee Evans MP, Mark Speakman MP, Mr Ken Cook (representing Ms Eleni Petinos, MP), Senior Constable Michael Todd (representing the NSW Police, Miranda Local Area Command) and Traffic and Transport Manager (Bruce Powe) were accepted.

Report and Minutes of the Meeting of the Sutherland Traffic and Traffic Safety Committee held on Friday, 3 March 2017

DECISION: (Senior Constable King/Councillor McLean)
That the Report and Minutes of the Sutherland Traffic and Traffic Safety Committee Meeting held on Friday, 3 March 2017 be confirmed as a correct record.

Report and Minutes of the Meeting of the Consultative Traffic Forum held on Friday, 3 March 2017

DECISION: (Councillor McLean/Senior Constable King)
That the Report and Minutes of the Consultative Traffic Forum Meeting held on Friday, 3 March 2017 be confirmed as a correct record.

*** Disclosures of Interest

There were no disclosures of interest declared.

All Report Recommendations were voted unanimously by the Sutherland Traffic and Traffic Safety Committee.
DECISION:
THAT:
1. Yellow linemarking for 'No Stopping' restrictions be provided at the intersection of Lantana Road and Gort Road, Engadine, in accordance with Plan 'A' attached to the report.

2. A 17 metre long 'No Parking' zone be provided on the southern side of Lantana Road, opposite Gort Road, outside House No. 50, in accordance with Plan 'A' attached to the report.

3. The Authorised Officers be advised of these decisions.

DECISION:
THAT:
1. Existing regulatory signs on the northern side of Mary Street, outside the Jannali Community Centre, be altered in order to provide '2P' time limited parking and 12 metres of 'No Parking Community Buses Excepted' be approved, in accordance with Plan 'A' attached to the report.

2. The modifications to the parking restrictions be reviewed after a six month trial period.

3. The Authorised Officers be advised of this decision.

DECISION:
THAT:
1. A holding line and double dividing centre line be provided at Dolans Road and Caringbah Road, Caringbah, in accordance with Plan 'A' attached to the report.

2. The Authorised Officers be advised of this decision.
DECISION:
THAT:
1. The provision of a roundabout at Burraneer Bay Road and Saunders Bay Road, Caringbah South, in accordance with Plan 'A' attached to the report be endorsed by the Committee.

2. The above work be further scoped, costed and listed for consideration for inclusion as an urgent matter in the current funding of the Traffic and Transport Works Program.

3. Staff report back with further treatments available for Saunders Bay Road.

DECISION:
THAT:
1. "1P 8.00am-8:00pm" parking restrictions be provided at Port Hacking Road, Lilli Pilli, fronting Lilli Pilli shopping centre, in accordance with amended Plan 'A' attached to the minutes (Appendix A).

2. The Authorised Officers be advised of this decision.

DECISION:
THAT:
1. A 'STOP' sign and linemarking be provided at the intersection of Green Point Road and Drummond Road, in accordance with Plan 'A' attached to the report.

2. A review be conducted after the implementation of the stop sign for the need of a 1000mm size convex safety mirror with visor and 'Distorted Image' plate be provided at the intersection of Green Point Road and Drummond Road, Oyster Bay, in accordance with Plan 'A' attached to the report.
DECISION:
THAT:
1. The recommendations listed in the Minor Signage Items table, be approved in accordance with the attached plans and subject to the following additional plan attached to the minutes;

   C11 - Kumbandang Avenue, off Kiora Road, Miranda (Appendix B)

2. The authorised officers be advised of this decision for enforcement purposes.

DECISION:
THAT:
1. Yellow linemarking and double dividing centre lines be provided at Belgrave Esplanade and Hawkesbury Esplanade, Sylvania Waters, in accordance with Plan 'A' attached to the report.

2. The authorised officers be advised of this decision for enforcement purposes.

DECISION:
THAT:
1. "Yellow edge lines" denoting 'no stopping' restrictions be approved on each side of entry / exit driveway crossing at 41 and 81 Bath Road, Kirrawee, in accordance with Plan 'A' and Plan 'B' attached to the report.

2. Parking conditions be monitored at the above locations in Bath Road, Kirrawee for the remainder of the year.

3. The Authorised Officers be advised of this decision for enforcement purposes.
RECOMMENDATION:

THAT:

1. In order to improve safety and efficiency at the intersection of Menai Road and Anzac Road Bangor, the northbound kerbside lane in Anzac Road be changed to a Left Turn only lane with associated signposting and linemarking in accordance with Plan A attached to the report.

2. The provision of a three lane approach in Anzac Road with a dual left turn arrangement be further scoped as a potential longer term solution pending the effectiveness of the measures proposed in Point 1 of the recommendation.

The Meeting closed at 10.44 am.

RESPONSIBLE OFFICER

The officer responsible for the preparation of this Report is the Traffic & Transport Services Manager, Bruce Powe, who can be contacted on 9710 0498.

File Number: 2015/2036
PORT HACKING RD, LILLI PILLI
PROPOSED 1 HOUR PARKING RESTRICTIONS FRONTING SHOPS

STANDARD PARKING RESTRICTION TIMES ARE PROPOSED:
“1P 8am-8pm”
Kumbandang Ave, off Kiora Rd, Miranda.

Parking restrictions at bend in road.

ISSUES:

- Narrow road and limited vision at bend.
- High parking demand on weekdays

Please install 'No Parking' signs and stems.
EXECUTIVE SUMMARY

• Council considered a report on the Process Refinements in Development Assessment – Panels and Determinations and resolved that the matter be deferred for the provision of further information regarding the recruitment process and terms of engagement for panel members. (PLN023-17).

• The recruitment process for the panel members is not dissimilar to processes used to recruit Council staff utilising online employment sites, newspapers and information circulated to relevant professional associations.

• Terms of engagement of panels and their operating procedures are set out in their respective charters, which are attached to this report for adoption.

REPORT RECOMMENDATION

THAT:

1. Council endorse the following revised model for the operation of its Independent Hearing and Assessment Panel and determination of development and related applications:

   a. Council retains a panel, but renames it ‘Sutherland Shire Local Planning Panel’ (SSLPP).

   b. The panel be comprised of two external technical experts and one community representative.

   c. Expert panel members be appointed as permanent members with an alternate, community members be drawn from a pool, and all members be paid a flat rate per meeting as determined by the General Manager.

   d. The technical experts be comprised of a Chair with legal/planning expertise, plus another member with town planning/urban design/architecture expertise.

   e. The Sutherland Shire Local Planning Panel has the functions of hearing from stakeholders, reviewing staff assessment reports, applying its professional and technical expertise, and determining applications that come before it.
f. Applications be referred to the Sutherland Shire Local Planning Panel if they are outside staff delegation, are referred by Councillors, or are referred by the Director Shire Planning or General Manager on the basis of perceived conflict of interest, public interest, complexity, scale, non-compliance with planning controls, or the like.

g. The process for Councillor call up be by way of a written or email request of one Councillor from the relevant Ward, plus any other two Councillors.

2. Council endorse the following revised model for the operation of its Architectural Review Advisory Panel:

a. Council retains a panel and renames it the ‘Design Review Forum’ (DRF).

b. The criteria for referral of proposals to the Design Review Forum be consistent with matters referred to a SEPP65 Design Review Panel, plus applications that, in the opinion of the Director Shire Planning, it would be in the public interest to refer to the Design Review Forum.

c. The Design Review Forum be comprised of two external Registered Architects and a senior Council staff member who has qualifications and experience relevant to matters before the Design Review Forum.

d. That two Registered Architects be appointed as permanent chair and a permanent member, two alternates be appointed to cover absences, and all be paid a flat rate per meeting as determined by the General Manager.

e. Landscape matters be incorporated into the consideration of the Design Review Forum by way of Council landscape architects being involved in pre-meeting Design Review Forum briefings and being present at the meetings to answer questions or offer advice as required.

f. The minutes be written in summary/point form following each item, comprised of two sections addressing big picture ideas and refinements that could be made to the scheme proposed, and be finalised within two business days.

3. The Charters for the Sutherland Shire Local Planning Panel and the Design Review Forum, attached to this report as Appendices B and C, be adopted.

4. Development consents be issued with a lapse time of five years unless there are special circumstances.
PURPOSE
The purpose of this report is to provide Council with additional information in regards to the proposed new model for the operation of the Independent Hearing and Assessment Panel and the Architectural Review Advisory Panel and to seek Council’s endorsement.

BACKGROUND
Council considered the report, Process Refinements in Development Assessment – Panels and Determinations (PLN023-17) on the 20 March 2017 resolving to seek a further report which included a discussion of and recommendations for the selection of panel members and their terms of engagement (Appendix A).

DISCUSSION
Recruitment
The recruitment process for panel members has generally been conducted in a manner similar to the process used to recruit Council staff. Advertisements are placed on online employment sites and have typically been placed in the Sydney Morning Herald and The Leader (for the community representative), and circulated to relevant professional associations.

Once applications close they are reviewed by a panel of staff, and interviews offered to candidates who best meet selection criteria. Staff from the Assessment Teams have been deliberately excluded from the process in the past to provide a degree of separation.

Once interviews are complete, a list of recommended candidates is compiled and presented to Shire Planning Committee and Council for endorsement.

Terms of engagement
The terms under which the panels are engaged and operate are set out in their respective charters which are attached as Appendices B and C.

BUDGET AND RESOURCES
The operation of an IHAP is at Council's discretion. An additional fee cannot be charged for applications that are referred to an IHAP, so the cost of operating the panel is part funded by general DA fees and part subsidised from Council's general revenue.

The changes proposed will have the effect of reducing the cost of administering the panels through a reduction in size and streamlining operation, and reducing the amount of printing by utilising electronic distribution. The outcome would be a net saving in member payments and labour costs.

It is also recommended that each member of both panels be remunerated by way of a flat rate per meeting, as determined by the General Manager, as is the current arrangement for IHAP. This assists in managing costs and the expectations of panel members. Rates have not been reviewed for a number of years, so some of the savings identified above may be absorbed.
POLICY
Council is not required to have either panel, but has chosen to do so in the interest of supporting strategic directions such as 'housing for all' and 'balanced development' expressed in its Community Strategic Plan. It is considered that the panels add value to development outcomes and should continue.

CONCLUSION
The recruitment process for panel members is similar to other Council recruitment processes, except that the Council provides the final endorsement. The terms of engagement are largely an operational matter that need to be reviewed from time to time and are these are reflected in the charter for each panel.

With the benefit of the information provided previously to Council (PLN023-17) and the further information provided in this report, it is recommended that Council endorse the revised model for the operation of the Independent Hearing and Assessment Panel and the Architectural Review Advisory Panel.

RESPONSIBLE OFFICER
The officer responsible for the preparation of this Report is the Director Shire Planning, Peter Barber, who can be contacted on 9710 0373.

File Number: 2016/260430
EXECUTIVE SUMMARY

The previous Council considered a report on the operation of the Independent Hearing and Assessment Panel (IHAP) and the Architectural Review Advisory Panel (ARAP) at its meetings of 20 June 2016 and 18 July 2016 (EHR062-16, EHR061-16, CCL007-17 and CCL006-17), which proposed a revised model for the operation of the panels to achieve efficiencies. Council resolved to maintain the current arrangements.

Since last considering these panels, Council reviewed its arrangements for delegation of development application determining authority to staff. Also, a draft Bill proposing amendments to the Environmental Planning and Assessment Act 1979 (EP&A Act) in relation to planning panels is currently on exhibition, which ought to be taken into consideration.

According to their terms of appointment, the term of the current IHAP and ARAP members has come to an end. The above factors ought to be taken into consideration by the new Council as it contemplates the future of IHAP and ARAP and considers recruitment of new members.

REPORT RECOMMENDATION

THAT:

1. Council endorse the following revised model for the operation of its Independent Hearing and Assessment Panel and determination of development and related applications:

   a. Council retains a panel, but renames it ‘Sutherland Shire Local Planning Panel’ (LPP).

   b. The panel be comprised of two external technical experts and one community representative.

   c. Expert panel members be appointed as permanent members with an alternate, community members be drawn from a pool, and all members be paid a flat rate per meeting as determined by the General Manager.

   d. The technical experts be comprised of a Chair with legal/planning expertise, plus another member with town planning/urban design/architecture expertise.

   e. The Sutherland Shire Local Planning Panel has the functions of hearing from stakeholders, reviewing staff assessment reports, applying its professional and technical expertise, and determining applications that come before it.
f. Applications be referred to the Sutherland Shire Local Planning Panel if they are outside staff delegation, are referred by Councillors, or are referred by the Director Shire Planning or General Manager on the basis of perceived conflict of interest, public interest, complexity, scale, non-compliance with planning controls, or the like.

g. The process for Councillor call up be by way of a written or email request of one Councillor from the relevant Ward, plus any other two Councillors.

2. Council endorse the following revised model for the operation of its Architectural Review Advisory Panel:

   a. Council retains a panel and renames it the ‘Design Review Forum’ (DRF).

   b. The criteria for referral of proposals to the Design Review Forum be consistent with matters referred to a SEPP65 Design Review Panel, plus applications that, in the opinion of the Director Shire Planning, it would be in the public interest to refer to the Design Review Forum.

   c. The Design Review Forum be comprised of two external Registered Architects and a senior Council staff member who has qualifications and experience relevant to matters before the Design Review Forum.

   d. That two Registered Architects be appointed as permanent chair and a permanent member, two alternates be appointed to cover absences, and all be paid a flat rate per meeting as determined by the General Manager.

   e. Landscape matters be incorporated into the consideration of the Design Review Forum by way of Council landscape architects being involved in pre-meeting Design Review Forum briefings and being present at the meetings to answer questions or offer advice as required.

   f. The minutes be written in summary/point form following each item, comprised of two sections addressing big picture ideas and refinements that could be made to the scheme proposed, and be finalised within two business days.

3. Development consents be issued with a lapse time of five years unless there are special circumstances.
PURPOSE
The purpose of the report is to provide Council with a range of options and seek endorsement of a revised Independent Hearing and Assessment Panel (IHAP) and Architectural Review Advisory Panel (ARAP) model, so that new panel members can be recruited.

A review is required to improve the value added by the panels and increase efficiency. Although only a relatively small number of Development Applications (DAs) pass through both or either of these panels, the panels consume a significant amount of staff resource. Refinements will not only improve the experience for DAs that are affected, but also free up resources that can be applied to other DAs.

BACKGROUND
Reports EHR062-16 and EHR061-16 were considered by Council on 20 June 2016 and it was resolved, in part, that a further report be provided to Council with the relevant Charters. Consequently reports CCL007-17 and CCL006-17 were considered by Council on the 18 July 2016, with the Council resolving to maintain the current arrangements.

When IHAP and ARAP panel members are appointed, they are endorsed for a fixed term, the term of the current pool of members has expired. Council needs to decide if it wishes to continue with the panels, and if so, set parameters for their operation before recruiting.

Independent Hearing and Assessment Panel (IHAP)
Council's IHAP has been in operation since 2003/2004, and was introduced to provide increased transparency and accountability; an avenue for stakeholders in the development process to be heard; and an opportunity for external professional expertise to be applied in the development assessment process.

IHAP is currently comprised of three independent technical experts, one of whom is the chair, and one community representative. The panel provides a recommendation about how each application should be determined, and the final determination is made by the Council. As the operation of the panel remains largely unchanged from its beginning, efficiency and outcome benefits could be achieved by revising the way the panel operates.

Over recent years, the State Government has revised its position and acknowledged that removing decisions on development from the political arena can improve the consistency, quality, and the level of confidence the community has in decisions. The establishment of the Planning Assessment Commission, the Greater Sydney Commission and the Sydney South Planning Panel are evidence of this change.
The State Government currently has on exhibition a draft bill proposing a number of amendments to the Environmental Planning and Assessment Act 1979. In relation to IHAPs, the explanatory information states:

“At the local level, independent hearing and assessment panels (IHAPs) have been established by a number of local councils over the last two decades….. Under this model, elected councils set the strategy, policy and standards for development on behalf of their constituents, while technical assessments and decisions are made by independent experts in line with Council’s framework.

The benefit of this approach is that it helps to depoliticise and improve the thoroughness and quality of decision making and, over time, increased confidence in the planning system. The use of panels also reduces the risk of conflicts of interest that may arise from elected officials making decisions about planning matters in which they have an interest. These benefits are maximised when the panel has a determinative, rather than advisory, function……..

While many local councils already have IHAPs or similar panels in place, there can be confusion and inconsistency as to how they are established and operate……. To address this, the current IHAP provisions will be replaced with updated provisions ….. These will set basic rules about the Constitution, membership and functions of local planning panels, and allow the application of consistent performance reporting requirements.

In the first instance, each council may decide whether it wishes to establish a local planning panel. Councils will also determine which planning functions are to be exercised by the panel. Should Council choose to establish a panel to exercise its planning functions, it will need to do so under the new provisions.”

The following are the proposed ‘basic rules’ about the operation of IHAPs:

Under the proposed amendments and supporting regulations, local planning panels will be established and operate as follows:

- The panels are to comprise three members, with an independent expert chair, another independent expert member and a community representative.
- The panel will not be subject to the direction or control of council except in relation to procedure and the time within which it is to deal with any matter.
- The members are appointed by the council.
- The expert members will be required to have expertise in any of the following areas - planning, architecture, heritage, the environment, urban design, economics, traffic and transport, law, engineering, tourism or government and public administration.
• The community member is to be appointed from a pool of nominees approved by the council.

• The council will set the rules for which matters go to the panel. It is expected that the vast majority of development applications would continue to be determined by council staff, with the more complex and contentious applications reserved for the local planning panels.

• The NSW Government will publish guidance material to help councils establish the panels, including a model charter and operating procedures.

There is no requirement for a council to have an IHAP, and under the draft EP&A Act amendments the Minister is only likely to direct a council to establish one if its performance in dealing with DAs is unsatisfactory.

In September 2015 Council revised its delegation of DA determining authority to staff, which resulted in fewer applications being referred to IHAP, and the final determination of these applications being made by the General Manager. Council resolved in December 2016 that this be changed, and applications referred to IHAP are now referred on to Council for determination.

There is considered to be value in having a forum that enables objectors to be heard. The circumstances where such a forum is used should be confined to those where a proposal is large, unusual, controversial, significantly non-compliant or poses a conflict of interest. It is not recommended that Councillors step back into this role, as was the case before IHAP. The process of hearing submissions and deliberating previously consumed a disproportionately large amount of Council’s time and prevented Council from devoting adequate time to other important core activities.

**Architectural Review Advisory Panel (ARAP)**

Council established ARAP in 2000 to ensure a consistent, high quality design that reflects the values and expectations of the community. This has been achieved largely by implementing State Environmental Planning Policy No.65 - Design Quality of Residential Apartment Development (SEPP 65) to deliver a better living environment for residents choosing this form of housing and to enhance neighbourhoods.

The origin of most council Design Review Panels (DRP’s) is from SEPP 65, which provides a framework for the establishment of DRP’s, though does not require councils to have one. SEPP 65 DRP’s only review applications for apartment development, they are advisory bodies that contribute specialist advice into the development assessment process.

Council’s experience in having ARAP has been a positive one in relation to quality of built outcomes. The standard of buildings constructed with the input of ARAP is superior to those constructed prior to the establishment of the panel, and those in nearby local government areas that do not apply the rigour that comes from having a DRP.
ARAP currently operates with three external registered architects, one being the Chair, plus an external landscape architect. Council staff are available to accompany the panel to site inspections, brief the panel on each proposal, facilitate the meetings, answer questions and to provide any other assistance the panel requires.

Following each meeting, the Chair drafts and circulates minutes to the members for review. The minutes for each item are typically three to six pages in length addressing the nine principles set out in SEPP 65. The timeframe for return of completed minutes is typically about three to four weeks.

The current review of ARAP has been prompted by several factors, but most importantly a desire to ensure that ARAP continues to add value to the work of the assessment team in approving quality development that provides high amenity for occupants and a positive contribution to the public domain.

While the quality of advice provided by ARAP has always been of a high calibre, there is a need to ensure that the relationship of the panel with applicants is productive and that the advice provided can be readily translated into the assessment process to deliver the above objectives. ARAP’s advice also needs to be consistent across meetings. Recent experience suggests that these aspects can be improved.

The review has also been prompted by the current high volume of proposals being considered by ARAP, which has been meeting weekly, compared to a typical three to four weeks meeting cycle.

**DISCUSSION**

**Panel Composition**

There are several options in terms of how panels can be structured. They can be fully external, can include a community representative, or could include staff, or Councillors.

The inclusion of Councillors is contrary to the objectives of a panel, as perceptions of political influence are not removed. The inclusion of staff does not allow a panel to be completely independent of the organisation, although staff are independent in that they have no bias toward or particular interest in applicants, objectors or politics.

Community representatives often come with no expertise in the key issues that are the basis on which they need to make decisions. Their insights can be valuable, providing a sense of local community expectations and sensitivities. These pragmatics can be missing when a panel is comprised only of professionals who live and practice outside the Shire.
A panel can be drawn from a pool of members with a fixed or rotating chair, or be comprised of permanent members with reserves. A fixed panel of people with demonstrated professional, objective decision making experience, like the Sydney South Planning Panel, has proven to be a successful model.

By contrast, a pool of members eliminates the possibility of individuals having too much influence over decisions made in the Shire, though can lead to inconsistency, variable decision making quality, and lack of cohesion, especially when a panel members are drawn infrequently.

Panel size is another consideration that affects logistics, cost, effectiveness and efficacy. Larger panels can be more cumbersome and do not permit all members to be heard. Large panels can also feel intimidating for those who appear before them. A panel should be large enough to allow a range of views to be put forward and considered so that decisions are robust and well rounded, though small enough to allow a consensus to be reached rather than a collection of disparate views.

There have been efforts made to ensure that the Chair of Council’s ARAP sits on IHAP when a matter is presented to IHAP that has already been considered by ARAP. This was in the interest of ensuring that there is continuity of advice and opinion in relation to urban design and architecture matters. This has not occurred regularly in practice due to the demand this places on that individual.

**IHAP**

It is recommended that Council adopt the composition model proposed in the draft Bill referred to above, which is two independent experts and a community representative drawn from a pool. This is especially preferable if the panel has determining authority. If the panel does not have determining authority the community representative could be replaced with an additional expert, as Council would bring the community perspective to the process when it makes the final decision on each application.

**ARAP**

It is recommended that ARAP also be reduced to from four to three members, comprised of two external registered Architects, and one staff member. As a DRP is not a decision making or recommendatory body that must be independent, the inclusion of staff would not compromise its primary purpose or integrity. As an advisory (rather than decision making) body that has input through pre-DA discussions and then through the DA assessment process, there is value in having a better connection, liaison and consistency with assessment staff as proposals are refined.

ARAP currently includes a landscape architect. Given the leafy nature of the Shire and the significant contribution that quality landscaping can make to high density development, it is considered worthwhile to have landscape as a consideration in the deliberation of the panel. On some occasions the landscape architect on ARAP has little to contribute because a scheme is not at detailed design stage; the scheme requires changes that will result in landscape re-design; the landscape component has been well designed; or landscape is not a major issue (e.g. urban centre development with no landscaping, routine industrial development).
Council’s assessment team currently includes two very competent landscape architects who have involvement in the assessment of landscape plans for larger developments. It would be possible to utilise this expertise during panel pre-meeting briefings where fundamental landscape issues can be raised and detailed assessment (such as species selection, soil depths, irrigation, etc) left to Council officers outside of and parallel to the ARAP process. Architects generally work closely with landscape architects in the design process and would be capable of conveying key landscape issues to applicants during panel meetings.

**Determination - IHAP**

Council’s current practice is similar to that of most councils in that planning staff have the ability to determine about 98% of applications without reference to a panel or Councillors. This model proves to be efficient in terms of time and resource, and provides for applications to be escalated to a higher level only when necessary.

In reconsidering an IHAP, the question arises as to how the remaining approximately 2-3% of applications are determined. The options are essentially that they be determined by a panel, by Councillors, or by staff.

There is a growing number of councils in Sydney that have delegated decision making authority to a panel. With a panel in place with the right composition and format, and the required skills, this is an efficient and transparent option. Participants in the process are able to see the process unfolding and understand how decisions are reached.

Decision making by Councillors, either by committee or the whole Council, adds another step and more time into the process. While it allows Councillors to have influence over decisions, it also enables allegations of political interference to be made and opens the possibility for recommendations of staff or a panel to be overturned without clear justification. Councils have three overlapping roles in the land development process, being policy maker, approval authority, and advocate for the community. Delegating the decision making function removes one of these potentially conflicting roles.

Allowing stakeholders to address Councillors before they make a decision on an application duplicates the function of a panel.

A related issue for consideration is the time that Council allows before a development consent lapses. The default period by legislation is five years, though a consent authority can limit the life of a consent to a period of not less than two years if it chooses. If a consent is limited to less than five years, applicants are able to apply for a single one year extension.
Council’s practice for many years has been to apply three years as a default period, unless there is a special circumstance, such as a trial period or the like. When adopting this policy, Council considered five years was too long to have valid consents lying dormant as the expectations of the community and planning controls may change in this time horizon.

In reality planning controls are not so dynamic and are rarely ‘wound back’ to prevent development that might have been approved in the last five years. Shorter life consents can present a difficulty for applicants to time the commencement of development with cycles in the property market. Requests to extend consents, and dealing with new DAs to replace similar DAs that have lapsed is not an efficient use of resources. It is recommended that the default period be five years.

Call-up Procedure - IHAP
Council has always provided a means for applications to be referred to IHAP for consideration by Councillors where extraordinary circumstances exist. Various systems have been in place including:

- Single Councillor call up;
- Two Councillors from the relevant Ward;
- Report to a Committee, then report for decision of the full Council;
- Council report and full Council decision; and
- One Councillor from the relevant Ward plus two others (Current Process adopted late 2016).

In considering the appropriate process, there needs to be a balance between the time delay, the effort required, and accountability to ensure that applications are only referred to IHAP when there is genuine value to be added to the assessment process. There are a range of other processes that could be adopted, however, the current process appears to be functioning satisfactorily.

Culture and Value Adding - ARAP
There is potential to refine the culture of the panel to increase the value it adds. At times the meeting environment becomes argumentative, which leads to defensive behaviour. This type of environment does not allow open and productive debate that can lead to better proposals. It is proposed to rename the panel the Design Review Forum (DRF) to project a more collaborative approach.

A DRP can add value on two levels. The first is by exploring bigger picture options and ideas for the way that a site is planned and the way buildings are massed. This is particularly helpful at Pre-DA stage where different approaches can be considered before the scheme is prepared in detail.

The second level is about refining and improving a scheme that has already been prepared in detail, to which an applicant has considerable commitment. Although the panel may conclude that a particular approach is not optimal, it may well nonetheless be acceptable. The panel may be able to offer valuable advice as to how the scheme could be improved. Provision of only bigger picture advice is not of great assistance to assessment staff when they have an application before them they need to determine.
The minutes currently prepared by ARAP are very comprehensive and thorough. As a consequence, they take considerable time to prepare and finalise and some applicants are not prepared to wait for the written minutes to be issued. There may be value in the minutes being in more of a point form following the nine principles in SEPP 65 without emotive or superfluous comments.

In regard to minute taking, an alternate option would be for a draft to be prepared by the panel on the day of the meeting that only need refinement after the event, which would ease the current burden on the chair.

**Next Steps**
The function and level of commitment of the panel members would change if the recommendations are adopted. With the expiration of the current term of panel members, there is the opportunity to recruit new members into revised roles. There would be a change required to some aspects of the administration of the panel and charter and procedures would require updating.

**IHAP**
The Charter of the IHAP would identify the purpose of the panel as:
- provide increased transparency in the assessment process by providing an opportunity for all interested parties to participate and be heard if they wish;
- add an element of peer review into the assessment process to ensure that the process is thorough and decisions are robust; and
- assess and determine applications that might be considered major, controversial, complex, unusual, where a significant conflict of interest may be perceived, or are outside the delegated authority of Council officers.

It is proposed that the composition of the IHAP will consist of the following members:
- two external experts and community representative, consistent with the draft EP&A Amendment Bill 2017;
- the expert panel members will include a permanent chair with expertise in planning/law, and a member with expertise in town planning/urban design/architecture. Two alternate members should also be appointed to cover absences;
- expert panel members will be selected based on qualifications and experience, and must not live in the Sutherland Shire or undertake any work in the Sutherland Shire that may conflict with their role on the Panel.
- that the community representative be drawn from a pool of pre-selected members on a rotating basis depending on availability

It is proposed that all external IHAP members will serve for a period of four years, with an initial six month probationary period to ensure the panel’s purpose and role are being satisfactorily delivered.
DRF (ARAP)
The purpose of the DRF would be to assist Council in the delivery of development that will result in building and places that:

- provide a high quality of life for those who occupy them; and
- make a positive contribution to the locality in terms of urban design, architecture and landscape.

It is envisaged that the role that the DRF will perform in achieving this purpose will be to:

- work with proponents to identify ways their designs can be improved to achieve the purpose described above; and
- provide input into the development assessment process on urban design and architecture considerations that can be considered alongside other relevant matters.

It is proposed that the following types of development applications be referred to the DRF:

- residential flat buildings constituted under State Environmental Planning Policy 65;
- significant industrial, commercial, retail, residential (including townhouse complexes over 10 units) and public buildings such as large schools and churches, as determined by the Director, Shire Planning. This would be dependent on their location, scale and whether they are visually prominent from the public domain.

It is proposed that the DRF composition consist of the following members:

- two external Registered Architects and a senior Council staff member who has qualifications and experience relevant to undertaking the role of the DRF;
- one of the external Registered Architects will be appointed as permanent DRF Chair and a second as a permanent member. Two alternates will be appointed to cover periods of absence or situations where a conflict of interest arises;
- the Chairperson (or nominee) of DRF will also be a member of Council’s IHAP;
- external DRF members will be selected based on qualifications and experience, and must not live in the Sutherland Shire or undertake any work in the Sutherland Shire that may conflict with their role on the Panel.

In summary, next steps will be to revise the two charters and recruit new members within the parameters outlined above. A report will be provided to Council recommending appointments following a recruitment process.

CONSULTATION
Staff involved in the assessment process and the administration of the panels have been consulted during the review. The decision to have a panel, the reason for it, how it operates and the output and outcomes expected are matters for Council. Panel members are appointed to deliver on the brief Council sets. For this reason current panel members have not been consulted.
BUDGET AND RESOURCES
The operation of an IHAP is at Council's discretion. An additional fee cannot be charged for applications that are referred to an IHAP, so the cost of operating the panel is part funded by general DA fees and part subsidised from Council's general revenue.

The changes proposed will have the effect of reducing the cost of administering the panels through a reduction in size and streamlining operation, and reducing the amount of printing by utilising electronic distribution. The outcome would be a net saving in member payments and labour costs.

It is also recommended that each member of both panels be remunerated by way of a flat rate per meeting, as determined by the General Manager, as is the current arrangement for IHAP. This assists in managing costs and the expectations of panel members. Rates have not been reviewed for a number of years, so some of the savings identified above may be absorbed.

POLICY
Council is not required to have either panel, but has chosen to do so in the interest of supporting strategic directions such as 'housing for all' and 'balanced development' expressed in its Community Strategic Plan. It is considered that the panels add value to development outcomes and should continue.

CONCLUSION
The IHAP has proven to be a worthwhile avenue to have available in the development assessment system, particularly for applications that are large, controversial, or have perceived conflicts of interest. As with most components of a system, it would benefit from refinement and re-focussing to ensure that maximum value is added to the development assessment process.

The changes proposed will reduce the costs associated with administering the panel through a reduction in its size and streamlining of its operation. The changes also bring Council's panel into line with changes proposed by the State Government aimed at ensuring a consistent, best practice approach across Councils.

The outcome would be a small net saving in financial and labour cost. The changes would also free up Councillor's limited and valuable time, which would enable Council to concentrate on policy formulation and remove any perception of politics being involved in decisions on development applications. It is therefore recommended that Council adopt the new LPP model.

The ARAP has proven to be valuable in the development assessment process since its inception. It has helped to deliver a higher standard of development across the Shire. It is recommended that Council retains the panel, though streamlines its operation and brings it more in line with the operation of SEPP 65 panels. This includes a change to the mix of development types reviewed by the panel to be primarily high rise residential, plus other development where the panel's input would be helpful.
RESPONSIBLE OFFICER
The officer responsible for the preparation of this Report is the Director Shire Planning, Peter Barber, who can be contacted on 9710 0373.

File Number: 2016/260430
Sutherland Shire Local Planning Panel
CHARTER
Last updated January 2017
1. BACKGROUND

The Panel will be responsible for providing an independent forum for objectors and applicants on certain types of development applications. The Panel will be required to assess applications in a manner that is ethical, professional and independent of Sutherland Shire Council’s development assessment process, and make the final determination.

A flow chart outlining the assessment process is in appendix A.

2. PURPOSE & ROLE

The purpose of the SSLPP is to:

- Provide a forum for applicants and objectors to be heard;
- Provide increased transparency and accountability in the development assessment process;
- Undertake merit based assessment;
- To remove any perception of conflict of interest (Councillors or staff);
- To remove any allegation of political bias or intervention;
- To allow Councillors to have time to focus on policy making and other important responsibilities, such as financial planning;
- To apply specialist technical expertise to assess and determine major, controversial and nominated development applications and those with unresolved objections.

It is anticipated that the following types of development application will be referred to the Panel:

- Applications that fall outside of staff delegations;
- Where the General Manager or Director, Shire Planning, decides that an application should be referred;
- Applications called up by Councillors; and
- Council’s own applications if there is a significant conflict of interest.
3. REPRESENTATION ON THE PANEL

The Panel will comprise two independent specialists and one community representative. The technical experts will comprise of a Chair with legal/planning expertise and a member with architecture/town planning/urban design expertise.

The Chairperson of the Panel and the second expert member will be appointed on a permanent basis with pool of members for the community representative position. Alternates will be appointed to cover situations where a conflict of interest arises or during periods of absence.

4. INDEPENDENT SPECIALISTS

Eligibility for the Panel will be based on qualifications and experience in the areas of law, urban design, architecture, landscape architecture, town planning, environmental science, engineering, social planning or related disciplines.

5. QUORUM

A quorum shall consist of a minimum of two Panel members.

6. REMUNERATION FOR PANEL MEMBERS

Each member of the Panel will be entitled to receive remuneration at a fixed flat rate per meeting, as determined by the General Manager.

7. CONFLICT OF INTEREST

The appointees for the specialist positions must not live in the Sutherland Shire or undertake any work within the Sutherland Shire that may conflict with their role on the Panel.

Alternative members will be appointed to the Panel to accommodate circumstances where there may be a conflict of interest or in the absence of a member.

8. FREQUENCY OF MEETINGS

It is anticipated that meetings will be held on a Tuesday once every three weeks, or at the discretion of the Chair, the General Manager, or Director Shire Planning. Generally, meetings will be held at Council’s Administration Centre, Eton Street, Sutherland. Site inspections relevant to agenda items will be arranged by the Panels coordinator and carried out prior to the Panel meeting.
9. PANEL’S FUNCTIONS AND RESPONSIBILITIES

The primary functions of the Panel are to:

- Provide an independent forum for open discussion amongst members of the Panel, applicants and objectors; and
- Independently assess development applications referred to it and determine each application.

In doing so, the Panel shall give consideration to the following:

- Assessment report on the application, prepared by Council’s assessment team;
- Representations made to the Panel at the time of the hearing;
- Relevant statutory planning instruments and/or Council policies;
- The provisions of the Environmental Planning and Assessment Act, 1979; and
- Any other relevant legislation, as considered appropriate.

10. CHAIRPERSON’S ROLE

The permanent Chairperson will have the following roles:

- Chair Panel meetings;
- Monitor due process and ensure principles of natural justice are observed.
- Facilitate a positive, constructive, productive atmosphere;
- Prepare reports and determinations from Panel meetings; and
- As requested, report on the Panel’s effectiveness and what changes, if any, are recommended for future operation of the Panel and for Council’s planning policies.

An additional payment will be made to cover these duties.

11. PANEL PROCEDURES

- Questions arising at a meeting of the Panel will be determined by a majority of votes of the members present and the voting of each Panel member will be recorded;
- The public hearing component will be conducted in ‘open session’ and the deliberation and preparation of reports and decisions will occur afterward in ‘closed session.’
• The frequency of meetings of the Panel and the procedures for conducting business at those meetings will be as determined by Council;

• The business conducted by the Panel shall be subject to the provisions of Section 148 of the Environmental Planning and Assessment Act, 1979 (Disclosure and Misuse of Information);

• On the occurrence of a vacancy in membership of the Panel, the General Manager and Council may appoint a person to fill the vacant position; and

• Agendas, reports and other business papers for consideration at the Panel meeting are to be distributed electronically to members at least five days prior to the date of the meeting.

• Senior staff from Council’s Major Development Assessment and Certification division will be available at the meeting to provide assistance and advice to the Panel members on Council’s planning and policy issues.

12. LENGTH OF TENURE OF PANEL MEMBERS

All Panel members shall be appointed for a period of four years with an initial three to six month period to ensure desired objectives are being met, during which time Council will review the purpose, role and operation of the Panel. Panel members and alternative members are eligible to serve for consecutive terms.

13. MEMORANDUM OF UNDERSTANDING

A Memorandum of Understanding detailing the roles and requirements of Panel members will be prepared for signature by Panel members (and alternative members). The Memorandum will set out the Panel’s composition, functions and responsibilities, as well as the Council’s aims and objectives for the Panel. Additionally, the Memorandum will cover appointment terms and meeting and other procedures.

14. CONDUCT OF BUSINESS

The Panel will operate in a manner consistent with Council’s Code of Conduct.

The Panel is to conduct its business in accordance with the provisions of the Sutherland Shire Local Planning Panel’s Policies document and Procedures Manual.
15. DOCUMENTATION TO BE PROVIDED TO PANEL MEMBERS

Panel members will be provided electronically with copies of all appropriate planning instruments, codes and policies. The Assessment Team report and submissions from objectors and supporters, all lodged documents from the applicant including architectural plans and other relevant information both internal and external documents associated with the application will be provided to members electronically at least five days in advance of each meeting.

16. REPORT FORMAT

Panel members will be provided with a pro-forma report format. If approval is determined, the Panel can apply conditions that generally follow Council’s standard development conditions. Conditions other than Council’s adopted standard conditions can be applied, however, such must not be ultra vires.

If refusal is determined, the Panel must justify the reasons for refusal and such reasons must be capable of being defended in the Land and Environment Court if a subsequent appeal is lodged.

17. ROLE OF COUNCILLORS

- Councillors may attend the open session of the Sutherland Shire Local Planning Panel as observers, as this is a public meeting.
- Councillors should refrain from addressing the Panel unless they have declared an interest and are addressing the Panel as a resident.
- If the Panel moves to “closed session”, Councillors must not attend that session.
- Councillors will be presented with the Determination of the Panel when the Councillor Briefing is circulated to Councillors.
**Development Applications and the Process**

1. **Development Application lodged**
2. **Public Notification**
3. **Assessment report prepared by Council Staff**

**Triggers for SSLPP**
- Council’s own applications if there is a significant conflict of interest
- Applications that fall outside of staff delegations
- Where the General Manager or Director Shire Planning, decides that an application should be referred to SSLPP
- Those applications where Council resolves that an SSLPP review is appropriate.

4. If application does not fall within the SSLPP triggers/guidelines, the application is determined under delegation.

5. **Sutherland Shire Local Planning Panel**
   - If application falls within the SSLPP guidelines, the assessment report is referred to an independent panel which assesses the application.

6. SSLPP to approve or reject based on the ability to determine the matter under delegation.
Charter Adoption and Revision History

This document has been approved by

<table>
<thead>
<tr>
<th>Name</th>
<th>Minute No</th>
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<tbody>
<tr>
<td>Environment &amp; Health Committee – EHC242-03</td>
<td>1115</td>
<td>7 April 2003</td>
</tr>
<tr>
<td>Planning Committee – PLN081-09</td>
<td>632</td>
<td>6 April 2009</td>
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<td>Mayoral Minute No. 14/13-14</td>
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Revision History

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<tr>
<td>1</td>
<td>Administration Manager</td>
<td>7 April 2003</td>
<td>Original Version</td>
</tr>
<tr>
<td>2</td>
<td>Administration Manager</td>
<td>2 February 2009</td>
<td>Expanded the independent specialist membership requirements to include the following fields: Law, Planning, Architecture, Urban Design, Heritage, The Environment, Land Economics, Traffic &amp; Transport, Engineering, Tourism, Government &amp; Public Administration</td>
</tr>
<tr>
<td>3</td>
<td>Administration Support</td>
<td>31 December 2013</td>
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<td>4</td>
<td>Development Panel’s Coordinator</td>
<td>17 February 2016</td>
<td>Amended due to change of Panel composition; renaming of Council Divisions; change of determination process and administrative changes</td>
</tr>
<tr>
<td>5</td>
<td>Development Panels Coordinator</td>
<td>12 January 2017</td>
<td>Amended due to remodelling of IHAP purpose and role and changes to administration tasks</td>
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Design Review Forum

CHARTER

Last updated January 2017
1. BACKGROUND
Council established an Architectural Review Advisory Panel (ARAP) in 2000 to provide independent professional advice with the intention of improving the quality of development in The Shire. While the Panel was established prior to the NSW Government's introduction of State Environmental Planning Policy No. 65, the Panel incorporated into its operations the evaluation of residential flat buildings under this Policy, as well as the more recent Apartment Design Guide (ADG).

In 2017, Council proposed and adopted a revised model for the operation of the panel and renamed it the Design Review Forum (DRF) to better communicate its functions and role.

2. PURPOSE & ROLE
The purpose of DRF is to:

- Provide independent expert design advice on development proposals and policy, particularly for apartment buildings;

- Assist in improving the design quality of development in terms of the quality of life for future occupants and the quality of the broader urban environment; and

- Build the capacity of assessment staff to assess proposals and make sound decisions.

The following categories of development applications are currently referred to the Panel:

- residential flat buildings as defined under State Environmental Planning Policy 65; and

- significant industrial, commercial, retail, residential and public buildings, dependent on their location, scale and whether they are visually prominent from the public domain, as determined by the Director, Shire Planning.

3. REPRESENTATION ON THE PANEL
- The “sitting” panel will consist of two external architects and a senior Council staff member who has qualifications and experience relevant to undertake the role of DRF;

- The Chairperson of the Panel will be appointed by the Council;

- One of the external architects will be appointed as permanent DRF Chair and a second as a permanent member. Two alternates will be appointed to cover periods of absence or situations where a conflict of interest arises; and

- Panel members will be selected based on qualifications, experience and demonstration that they do not live in the Sutherland Shire or undertake any work in the Sutherland Shire that may conflict with their role on the Panel.
4. QUORUM
A minimum of two members of the Panel shall form a quorum and any duly convened meeting at which a quorum is present shall be competent to exercise the Panel's role.

5. RENUMERATION FOR PANEL MEMBERS
Each member of the Panel will be entitled to receive remuneration (including travel and subsistence allowances) for attending meetings and transacting the business of the Panel, as a flat rate per meeting as determined by the General Manager.

6. CONFLICT OF INTEREST
The independent specialists are to have no conflict of interest within the Sutherland Shire local government area. Alternative members will be appointed to the Panel to accommodate circumstances where there may be a conflict of interest or in the absence of a member.

7. FREQUENCY & FORMAT OF MEETINGS
It is anticipated that meetings will be held on a Thursday, weekly commencing at 9:30 am, or at the discretion of the Chair, the General Manager, or Director Shire Planning, as and when required. Generally, meetings will be held at Council’s Administration Centre, Eton Street, Sutherland. Site inspections relevant to agenda items are to be carried out prior to the Panel meeting, if necessary.

Site inspections are undertaken by the Panel as a group in the morning. Interviews of approximately 40 - 60 minutes per item are held in the afternoon with applicants and/or architects, with 15 minute briefings being given by staff prior to each interview. Panel meetings usually finish between 5.00 and 6.00 pm

8. PANEL’S FUNCTIONS AND RESPONSIBILITIES
The primary functions of the Panel are to:

- provide input into the planning policy formulation process so that Council’s policy framework supports the delivery of quality built outcomes;
- work with proponents to identify ways their designs can be improved to achieve the purpose described above; and
- provide input into the development assessment process on urban design and architecture considerations that can be considered alongside other relevant matters.
In doing so, the Panel shall give consideration to the nine design quality principles from State Environmental Planning Policy No. 65, which the Panel uses when considering the merits of any proposal. The design quality principles are:

1. Context and Neighbourhood Character
2. Scale and Built Form
3. Density
4. Sustainability
5. Landscape
6. Amenity
7. Safety
8. Housing Diversity and Social Interaction
9. Aesthetics

**Chairperson’s Role** - The Chairperson has the following roles:

- Chair Panel meetings;
- Monitor due process;
- Ensure that the principles of natural justice are observed;
- Prepare reports from Panel meetings; and
- Provide feedback to Council on the Panel’s effectiveness and what changes, if any, are recommended for future operation of the Panel and for Council's planning policies.

An additional payment will be made to cover these duties.

9. **LENGTH OF TENURE OF PANEL MEMBERS**

All Panel members will serve for a period of four years with an initial three to six month period to ensure desired objectives are being met during which time Council will review the Purpose and Role and operation of the Panel. Panel members and alternative members are eligible to serve for consecutive terms.

10. **MEMORANDUM OF UNDERSTANDING**

A Memorandum of Understanding detailing the roles and requirements of the DRF members will be prepared for signature by Panel members (and alternative members). The Memorandum will set out the Panel’s composition, functions and responsibilities, as well as the Council’s aims and objectives for the Panel. Additionally, the Memorandum will cover appointment terms and meeting and other procedures.

11. **CONDUCT OF BUSINESS**

The Panel is to conduct its business in accordance with the provisions of the Design Review Forum Policies document and Procedures Manual. The Panel is also to operate in a manner consistent with Council’s Code of Conduct.
12. DOCUMENTATION TO BE PROVIDED TO PANEL MEMBERS

Following documents received from the Applicant at time of lodgement:

<table>
<thead>
<tr>
<th>Pre-DA Applications (DRF)</th>
<th>DA's</th>
</tr>
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<tbody>
<tr>
<td>• Summary of architectural proposal</td>
<td>• Architectural Plans</td>
</tr>
<tr>
<td>• Architectural Plans</td>
<td>• Landscape plan</td>
</tr>
<tr>
<td>• Concept landscape plan or concept notes</td>
<td>• Statement Environmental Effects</td>
</tr>
<tr>
<td>• Google SketchUp model</td>
<td>• Other relevant documents including clause 4.6 submissions</td>
</tr>
<tr>
<td>• Completed compliance table</td>
<td>• Google SketchUp model</td>
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<td>(template supplied by Council)</td>
<td>• Completed compliance table</td>
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<td></td>
<td>(template supplied by Council)</td>
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13. REPORT FORMAT

Panel members will be provided with a pro-forma report format

14. MEETING PROCEDURES

- Agendas including information on the meeting date, venue and business to be conducted and other appropriate documentation for each item to be considered are to be distributed via an electronic package to members at least ten days prior to the date of the Panel meeting consisting of:
  - A3 copies of the architectural plans & A1 copy Landscape Plan (Landscape Architect) submitted by the applicant
  - Relevant sections from the applicant’s Statement of Environmental Effects.
  - SEPP 65 design statement (if appropriate).
  - Other relevant information submitted by the applicant (eg arborist’s reports, etc)
  - Compliance tables
  - Google SketchUp model
  - Aerial, land use and topography information from Council’s GIS.

- Panel members meet at the Council Chambers at 9.30 am (or as otherwise arranged) on the day of the scheduled meeting to carry out site inspections for the applications to be considered.

- Site inspections are organised by the Development Panels Coordinator and staff from Council’s Major Development Assessment and Certification teams accompany the Panel members. Council provides appropriate transport for the site inspections.

- Following the site inspections the Panel meet formally in one of Council’s meeting rooms to consider the Agenda items.
The Chairperson prepares reports on each application considered at the meeting and provides the Council (via the Development Panel's Coordinator) with a copy of those reports directly after each meeting.

The Development Panels Coordinator then provides the reports to the relevant Council assessment staff members. In the case of a pre-DA proposal, the report is also provided to the applicant, with a copy provided to the relevant Council assessment staff members.

Meetings of the Panel are not open to the general public. Applicants are invited to attend the meeting to discuss their proposal but are not present during the Panel's deliberations.

The provisions of Section 148 of the Environmental Planning & Assessment Act “Disclosure and Misuse of Information” apply. (Appendix 1)

15. STAFF ATTENDANCE
The Panel is supported by Council's Development Panels Coordinator, who attends all Panel meetings and records key issues raised by the Panel members in abbreviated form.

Relevant assessment staff from the Development Assessment and Certification division also attend the Panel meetings as required and are available to answer any questions that may arise. This ensures that the Panel has immediate access to information regarding codes and policies, particularly if they are contemplating a recommendation for amending an application in some way.

16. ADMINISTRATION OF THE PANEL
The administrative procedures for the Panel are undertaken by Council's Development Panels Coordinator, including the preparation of rosters/agendas; liaison with Panel members, applicants and Council staff members; and the arrangements for site inspections (including transport).
17. APPENDIX 1

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 - SECT 148

Disclosure and misuse of information

148 Disclosure and misuse of information

(1) A person shall not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:

(a) with the consent of the person from whom the information was obtained,
(b) in connection with the administration or execution of this Act,
(c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings,
(d) in accordance with a requirement imposed under the Ombudsman Act 1974, or
(e) with other lawful excuse.

(2) A person acting in the administration or execution of this Act shall not use, either directly or indirectly, information acquired by the person in that capacity, being information that is not generally known but if generally known might reasonably be expected to affect materially the market value or price of any land, for the purpose of gaining either directly or indirectly an advantage for himself or herself, or a person with whom he or she is associated.

(3) A person acting in the administration or execution of this Act, and being in a position to do so, shall not, for the purpose of gaining either directly or indirectly an advantage for himself or herself, or a person with whom he or she is associated, influence:

(a) the making of any provision of an environmental planning instrument or proposed environmental planning instrument, or
(b) the determination of a development application, or
(c) a decision concerning a complying development certificate, or
(d) the giving of an order under Division 2A of Part 6.

(4) In this section, a person is associated with another person if the person is the spouse, de facto partner, sibling, parent or child of the other person.

Maximum penalty: 20 penalty units or imprisonment for a term not exceeding 6 months.

Note: “De facto partner” is defined in section 21C of the Interpretation Act 1987.
Charter Adoption and Revision History

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<td>29 April 2002</td>
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<td>Planning &amp; Assessment Committee – PLN082-09</td>
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<tr>
<td>1</td>
<td>Director – Environmental Services</td>
<td>22 April 2002</td>
<td>Original Version</td>
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<tr>
<td>2</td>
<td>Director – Environmental Services</td>
<td>27 January 2009</td>
<td>Membership of the Panel amended so that all external urban designers, architects and landscape architects neither be residents of, nor employed in the Sutherland Shire.</td>
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CONFIDENTIAL REPORTS OF THE SHIRE INFRASTRUCTURE COMMITTEE HELD ON 3 APRIL 2017

In accordance with Section 10A(1) of Local Government Act 1993, the following matters will be considered in the Closed Session:

INF011A-17 T685/16 THE RIDGE SPORTS COMPLEX - OPEN SPACE AND GOLF COURSE MAINTENANCE

Section 10A(2)(d)(i) Commercial Information of a Confidential Nature:
This matter is being considered in Closed session as it relates to commercial information the disclosure of which would be likely to prejudice the commercial position of the person, company or tenderer who supplied it. On balance, the public interest in preserving the confidentiality of information provided by persons, companies or tenderers outweighs the public interest in maintaining openness and transparency in council decision-making because the disclosure of this information could reveal information that is commercial in confidence and the release of which could damage the commercial position of the person, company or tenderer who supplied it.