



Report of Meeting

Sutherland Shire Local Planning Panel

Tuesday, 17 December 2019

6:00pm

Black Box

Sutherland Entertainment Centre

30 Eton Street, Sutherland

SUTHERLANDSHIRE

PRESENT: Jason Perica (Chair), Grant Christmas and David Russell.

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

Apologies

That an apology tendered on behalf of Mary-Lynne Taylor be accepted and leave of absence granted.

***** DISCLOSURES OF INTEREST
File Number: 2015/14239**

There were no declarations of interest made at the meeting.

**** SEE SPECIAL NOTE FROM THE CHAIR – UNDER SEPARATE COVER**

**SSLPP074-19 2019/351690 - Planning Proposal: 138-142 Cronulla Street, Cronulla
File Number: 2019/351690
** SEE SPECIAL NOTE FROM THE CHAIR – UNDER SEPARATE COVER**

Speaking against the proposal was Ted Manning.

Speaking for the proposal were Juliet Grant, Steve Kennedy and Cameron Jones.

PANEL RECOMMENDATION:

The Panel is of the opinion the Planning Proposal for 138-142 Cronulla Street, Cronulla has some strategic merit, although raises the following observations and significant issues:

- The massing and likely future blank northern elevation on the boundary would be visible for some time, given the remaining lower height limits to the north, and this is not a positive urban design or internal amenity outcome;
- Additional overshadowing, including to the Park and Anzac Memorial in midwinter, is problematic;
- The site is somewhat constrained in width and length, and being immediately to the north of the adjoining park;
- Providing some flexibility to support an accommodation hotel has some merit.

In light of the above there would be greater strategic planning merit in a planning proposal for the full block, with provisions for amalgamation, urban design massing guidelines and controlled flexibility for a hotel(s), while balancing impacts upon the park and urban form.

REASON FOR THE RECOMMENDATION:

The reasons are outlined in the decision above.

VOTES:

The decision was unanimous.

SSLPP075-19	Proposal:	DA18/1388 - Demolition of existing structures, construction of a single dwelling, construction of a secondary dwelling, construction of swimming pools, construction of a tennis court, associated landscaping and ancillary structures and lot consolidation
	Property:	Lot 14 DP 215768, Lot 1 DP 225927, (30 & 32) Matthew Flinders Place, Burraneer
	Applicant:	Anthony William Charles
	File Number:	DA18/1388

Speaking for the proposal were Peter Williams and Darren Long (neighbours), the applicant and representatives, including Cameron Jones, Lyndall Wynne, Brendon Wallis and Tony Charles.

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. DA18/1388 for demolition of existing structures, construction of a single dwelling, construction of a secondary dwelling, construction of swimming pools, construction of a tennis court, associated landscaping and ancillary structures and lot consolidation at Lot 14 DP 215768, Lot 1 DP 225927, (30 & 32) Matthew Flinders Place, Burraneer be approved subject to the conditions recommended by Council staff, subject to the following changes:

- Condition 2(iv) be amended to change “600mm” to “900mm” and delete the words “as informal steppers”;
- Delete Conditions 2(ix) and 2(x);
- Amend condition 3(i) to also include a sentence to state:
“The rooftop area shall be made a green roof, for planting by grasses, shrubs and trees, with details to be provided to Council for approval prior to the submission of a Construction Certificate and the approved details to be included in the application for a Construction Certificate”

REASON FOR THE DECISION:

The Panel generally agreed with the assessment of environmental impacts as outlined in the Council staff assessment report.

Broadly, the Panel noted that the proposed building, while being well designed, involved the removal of a large number of trees, including significant trees, and some natural landscape features in the central portion of the site, in a zone which has Environmental Management principles embedded in its title and objectives. Given this, the approach of retaining the area within the Foreshore Area

(between the FBL and water) as natural as possible, and retaining as many trees as possible, is both reasonable and appropriate. This gave rise to both an understanding and support of the efforts by Council to refine aspects of the proposal through conditions. However, some matters of detail warranted review in striking a balance between use of the site, access and environmental management.

The proposed tennis court may have some merit, provided it included significant landscaped screens, minimised fencing height and eliminated lighting (with play during daylight only), as was put forward as acceptable to the applicant at the meeting. However, the proposal before the Panel was above the height limit and required a Clause 4.6 request, which was not submitted nor subject of analysis by staff and the Panel was unwilling to accept one at the meeting, as this would prejudice proper consideration and analysis. Accordingly, the proposed tennis court could not be supported. The applicant's efforts to liaise with neighbours was commendable, as was an intent to provide a green outlook over this part of the site in lieu of other options. In this regard, it was appropriate to expand the condition requiring removal of the tennis court to also require it to be replaced by a "green roof".

In terms of a request by the applicant to delete many recommended design changes within Conditions 2 and 3 of the recommended conditions of consent, the Panel had regard to each. Mr Christmas was of the view all recommended conditions by Council staff were appropriate in the circumstances and none should be amended. However, 3 conditions were agreed to be either partially amended or deleted by Mr Perica and Mr Russell, as outlined in the decision above. As those two members formed a majority, such change was made. Other conditions sought to be deleted were not supported as the conditions were reasonably aimed at greater tree retention and retention of the foreshore area in a more natural state.

The Panel had regard to the applicant's Clause 4.6 request regarding the maximum height limit for the dwelling (as opposed to tennis court structures) and formed the view the applicant's written request satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the development standard, notwithstanding the non-compliance, and granting consent was in the public interest.

In terms of consideration of community views, the Panel noted the written and verbal submissions and generally agreed with the assessment of those submissions within the Council staff report, subject to some refinement to recommended conditions outlined above.

VOTES:

The decision was unanimous for approval, although, as stated Mr Christmas did not agree to amending any of the conditions recommended by Council staff.

SSLPP076-19	Proposal:	DA19/0507 - Construction of additional dwelling to create a detached dual occupancy and two lot Torrens Title subdivision
	Property:	Lot 1113 DP588662, (50) Saunders Bay Road, Caringbah South
	Applicant:	C D Architects
	File Number:	DA19/0507

Speaking for the proposal was Jacob Yammine.

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. DA19/0507 for Construction of additional dwelling to create a detached dual occupancy and two lot Torrens Title subdivision at Lot 1113 DP588662, (50) Saunders Bay Road, Caringbah South be approved subject to the conditions in the report by Council staff to the Panel.

REASON FOR THE DECISION:

The Panel generally agreed with the assessment of environmental impacts as outlined in the Council staff assessment report.

The Panel had regard to the applicant's Clause 4.6 request regarding the maximum height limit for the dwelling and formed the view the applicant's written request satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the development standard, notwithstanding the non-compliance, and granting consent was in the public interest. The non-compliance was relatively minor and largely arose from "existing ground" being affected by a pool, which did not reflect the surrounding topography.

In terms of consideration of community views, the Panel noted the one written submission and generally agreed with the assessment of that submission as outlined within the Council staff report. The removal of trees was reasonable minimised and mitigated by a condition of consent requiring replacement planting.

VOTES:

The decision was unanimous.

SSLPP077-19	Proposal:	DA19/0032 - Torrens Title subdivision of 1 lot into 2
	Property:	Lot 80 DP 11491, (28) Wonga Road, Yowie Bay
	Applicant:	Daniel Graeme Shuttleworth
	File Number:	DA19/0032

Speaking for the proposal were Lyndall Wynne and Daniel Shuttleworth.

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. DA19/0032 for Torrens Title subdivision of 1 lot into 2 at Lot 80 DP 11491, (28) Wonga Road, Yowie Bay be refused for the following reasons, generally consistent with those in the Council staff report to the Panel, namely:

- i) The proposal fails to satisfy *Environmental Planning and Assessment Act 1979* Clause 1.3 (c) “to promote the orderly and economic use and development of land”.
- ii) The proposal fails to satisfy *Environmental Planning and Assessment Act 1979* Clause 1.3 (g) “to promote good design and amenity of the built environment”.
- iii) The proposal fails to satisfy *Sutherland Shire Local Environmental Plan 2015* Clause 4.1 (a)(ii) “to ensure that a new lot created for the purpose of a dwelling house has a sufficient area available for service space”.
- iv) The proposal fails to satisfy *Sutherland Shire Local Environmental Plan 2015* Clause 4.1A (2)(a) as each of the proposed lots fail to achieve the minimum 18m width at the building line. Further, the submitted Clause 4.6 request does not present sufficient environmental planning grounds or reasoning as to why non-compliance with this development standard for proposed Lot 2 is acceptable.
- v) The proposal fails to satisfy *Sutherland Shire Local Environmental Plan 2015* Clause 6.16 (b) (ii) as the proposed subdivision pattern does not contribute to the desired future character of the locality.
- vi) The proposal fails to satisfy *Sutherland Shire Development Control Plan 2015* Chapter 2 Clause 2.1.5 to “provide adequate access for emergency services within the side setback in bush fire prone areas”.
- vii) The proposal fails to satisfy *Sutherland Shire Development Control Plan 2015* Chapter 2 Clause 2.2.2, as proposes Lot 2 has a 900mm front setback rather than the minimum 4.0m for an internal lot.

- viii) The proposal fails to satisfy *Sutherland Shire Development Control Plan 2015* Chapter 2 Clause 2.2.2, as proposes Lot 2 has a 0.225m side setback rather than the minimum 1.5m.
- ix) The site is not considered suitable for the proposed development.
- x) The subdivision within the Foreshore Area is likely to lead to greater man-made structures within that area, by two lots seeking access to the foreshore rather than one. Being the most sensitive portion of the site, this is inappropriate, and there is no compelling planning reason to support the illogical subdivision pattern proposed.

REASON FOR THE DECISION:

The reasons are outlined in the decision above. The Panel had regard to an objection from the community and agreed with the assessment of concerns raised as outlined in the report by Council staff.

VOTES:

The decision was unanimous.

SSLPP078-19	Proposal:	DA18/1325 - Alterations and additions to existing dwelling
	Property:	Part Lot 8 DP 23295, (56) Kingfisher Crescent, Grays Point
	Applicant:	Adam Stuart Payne
	File Number:	DA18/1325

Speaking for the proposal were Adam Payne, Lyndall Wynne and Arturo Camancho.

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. DA18/1325 for Alterations and additions to existing dwelling at Part Lot 8 DP 23295, (56) Kingfisher Crescent, Grays Point be approved subject to the conditions in the report by Council staff to the Panel.

REASON FOR THE DECISION:

The Panel generally agreed with the assessment of environmental impacts as outlined in the Council staff assessment report.

The Panel had regard to the applicant's Clause 4.6 requests regarding the maximum height limit for the dwelling and limited development in the Foreshore Area and formed the view the applicant's written requests satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the development standard, notwithstanding the non-compliance, and granting consent was in the public interest. The non-compliance was relatively minor and largely arose from the topography, and design measures were included to reasonably mitigate any impacts to surrounding land, and the foreshore. The building footprint was also limited to projecting no further forward than the existing building.

The proponent had requested just prior to the meeting that the building be increased in height by 500mm for some internal redesign. The Panel could not accept this request as it would require resubmission of a revised Clause 4.6 request which was not before the Panel nor assessed by Council staff, and may deny procedural fairness for neighbours who would not be aware of the change, with potential changed and greater impact.

In terms of consideration of community views, the Panel noted no submissions were received.

VOTES:

The decision was unanimous.

SSLPP079-19	Proposal:	DA19/0396 - Adjustment of boundaries involving two adjacent lots
	Property:	Lots 5 & 6 DP 30142, (126 & 128) Fowler Road & (130-132) Fowler Road, Illawong
	Applicant:	Reynold Sciuriaga
	File Number:	DA19/0396

No-one spoke for or against the proposal.

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. DA19/0396 for Adjustment of boundaries involving two adjacent lots at Lots 5 & 6 DP 30142, (126 & 128) Fowler Road & (130-132) Fowler Road, Illawong be approved subject to the conditions in the report by Council staff to the Panel.

REASON FOR THE DECISION:

The Panel generally agreed with the assessment of environmental impacts as outlined in the Council staff assessment report.

The Panel had regard to the applicant's Clause 4.6 request regarding the minimum lot width and formed the view the applicant's written requests satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the development standards, notwithstanding the non-compliances, and granting consent was in the public interest. The new lot would provide greater width at the location of an existing and likely future dwelling and the lot adjustment is not likely to exacerbate impacts upon neighbours or the foreshore, despite the enlarged lot having potentially greater development potential given the FSR standard is linked to site area.

While the Panel was not aware of the intent behind the subdivision change, it did not have any compelling reasons not to support the proposal. Any future DA will need to be assessed on its merits and a maximum FSR standard is not to be assumed to be achievable, especially noting the significant constraints arising from the topography and the Foreshore Building Line.

In terms of consideration of community views, the Panel noted no submissions were received.

VOTES:

The decision was unanimous.

SSLPP080-19	Proposal:	DA18/0549 - Alterations and additions to an existing dwelling and garage
	Property:	Lot C DP419563, (153) Georges River Crescent, Oyster Bay
	Applicant:	AF Design
	File Number:	DA18/0549

Speaking against the proposal were Julie Evans, Mark Boutros and James Alexander.

Speaking for the proposal was Will Fredericks.

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. DA18/0549 for Alterations and additions to an existing dwelling and garage at Lot C DP419563, (153) Georges River Crescent, Oyster Bay be approved subject to the conditions in the report by Council staff to the Panel, subject to the following amendment:

A new condition be inserted to state:

“Windows numbered W5, W6 and W7 (to an entry and stair) be translucent glass and window W08 to the ensuite be obscure glass, with details to be included in the application for a Construction Certificate”.

REASON FOR THE DECISION:

The Panel generally agreed with the assessment of environmental impacts as outlined in the Council staff assessment report.

The Panel was assisted by a thorough site visit, including visiting three of the surrounding dwellings most potentially affected by the proposal. There was some disjuncture between the severity of impact from the proposal claimed by neighbours and the impact gauged by the Panel, including upon privacy, views and visual impacts. Put simply, the Panel did not see a significant amenity impact from the proposal, including relating to a localised non-compliance with the height standard.

In terms of view impacts, the totality of views from neighbouring properties must be assessed and the level of impact was not of such significance to warrant refusal. In terms of view impacts to dwellings to the west and east, these impacts were considered very minor. To the south, there was loss of water views, but key aspects related to water-land interface and headland silhouettes would be retained, and most impact arose from massing within the height limit.

In terms of privacy impacts, these impacts were reasonably mitigated by not providing windows in the western elevation, where the proposal is closest to a neighbour, while the setbacks to dwellings to the south and east, as well as the nature of rooms to which there are proposed new windows, is such that privacy impacts could not be considered unreasonable, nor dissimilar to the existing relationship

between dwellings in the area. Despite this, it is reasonable that some new windows be translucent or obscure.

The visual impacts would also not be dissimilar to the many other dwellings in the area, including beyond the Foreshore Building Line, and the impact upon the dwelling to the west was not considered significant, especially given the retained outlook.

There is some overall merit in an addition within the building footprint and further back from the foreshore, as opposed to closer to the foreshore, and the proposed bulk is less than may otherwise be the case, noting the FSR is around 20% below that development standard.

There were a number of submissions (written and verbal) that queried or challenged calculations made by the applicant, or the characterisation of the proposal and existing lot. The Panel considered these matters, aided by site observations first hand, and was persuaded by the analysis by Council staff, who also considered additional information in detail.

A suggestion by a neighbour's representative that the solution to concerns was demolition and new building was unreasonable. The Panel did not agree the proposal was akin to a new building in any way.

The Panel had regard to the applicant's Clause 4.6 requests regarding the Height of Building development standard (Clause 4.3 of SSLEP 2015) and Limited Development in the Foreshore Area (Clause 6.9 of SSLEP 2015) and formed the view the applicant's written requests satisfactorily addressed required matters within Clause 4.6(3) of the LEP. The Panel was satisfied the proposal was consistent with the zone objectives and the objectives of the development standards, notwithstanding the non-compliances, and granting consent was in the public interest. The height non-compliance was localised, relatively minor and largely arose from the slope of the site, with a height and scale consistent with the surrounding area and with impacts that were not considered significant (beyond which could reasonably be anticipated given the planning controls). As previously stated, limiting development to within the overall building footprint or further back from the foreshore represented sound site planning.

VOTES:

The decision was unanimous.

The Meeting closed at 7:58pm.