



Report of Meeting

Independent Hearing and Assessment Panel

Tuesday, 17 April 2018

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

SUTHERLANDSHIRE

PANEL: Jason Perica (Chair), Grant Christmas, Mary-Lynne Taylor, David Russell

Staff in attendance were the Manager, Development Assessment and Certification (Simone Plummer) and Manager, Major Development Assessment (Mark Adamson)

Disclosures of Interest

File Number: 2015/14239

There was one declaration of interest, for David Russell in relation to Development Application No.17/0992 for 696 Port Hacking Road, Dolans Bay (the fourth item below). This was a non-significant and non-pecuniary interest related to both David Russell (Community Representative) and Peter Couvaras (Architect for 969 Port Hacking Road submission) in that both persons are current members of the Australian Institute of Architects (AIA), Architects Network southern region (ANSR).

Apologies

There were no apologies.

IHAP015-18	Proposal:	Alterations and additions to a dwelling
	Property:	9 Canberra Road, Sylvania
	Applicant:	Minfen Zhai, Yan Song & Chengnan Cao
	File Number:	DA18/0062

Speaking for the proposal was Yan Song.

PANEL DECISION:

THAT:

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application No. 18/0062 for alterations and additions to a dwelling at 9 Canberra Road, Sylvania be approved subject to the conditions within the Council staff report to the Panel of 17 April 2018, with no changes.

REASON FOR THE DECISION:

The Panel generally agreed with the balance of environmental considerations outlined within the Council staff report. The addition was appropriately sited, with due regard to the applicable planning controls, the context of the site and interface with neighbours. The proposed addition generally replaces an existing structure.

The Panel had regard to the applicant's Clause 4.6 variation request regarding the minimum landscaped area standard within Clause 6.14 of Sutherland Shire LEP 2015. Given the proposed addition was within an existing paved/covered area and did not reduce landscaped area (the non-compliance is pre-existing and not being made worse), the Panel was satisfied regarding the

landscaped area. The Panel formed the view the applicant's written request satisfactorily addressed required matters within Clause 4.6 of the LEP, the proposal was consistent with the objectives of both the landscaped area standard and the zone objectives (and thereby in the public interest) and it was considered compliance with the landscaped area standard was unnecessary and unreasonable in this case.

In terms of consideration submissions and community views, it was noted no submissions were received regarding the application.

VOTES

The decision was unanimous.

ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to Landscape area satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the Landscape area development standard be varied to 18.4%, in respect to this application.

1. That Development Application No. 18/0062 for alterations and additions at Lot 300 DP 869749 9 Canberra Road, Sylvania be approved, subject to conditions contained in Appendix "A" of the report.

IHAP016-18	Proposal:	Replacement of a fibre glass pool with a concrete swimming pool
	Property:	41 Yarra Burra Street, Gymea Bay
	Applicant:	Gregory Craig Kent
	File Number:	DA18/0007

There were no speakers for or against the proposal.

PANEL DECISION:

THAT:

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application No. 18/0007 for replacement of a fibre glass pool with a concrete swimming pool at 41 Yarra Burra Street, Gymea Bay be approved subject to the conditions within the Council staff report to the Panel of 17 April 2018, with no changes.

REASON FOR THE DECISION:

The Panel generally agreed with the balance of environmental considerations outlined within the Council staff report. The proposal simply involved replacement of a pool, with a very minor reduction in landscaped area by less than 4sqm due to a small balance tank.

The Panel had regard to the applicant's Clause 4.6 variation request regarding the minimum landscaped area standard within Clause 6.14 of Sutherland Shire LEP 2015. The proposal resulted in a very minor reduction in the landscaped area. The Panel formed the view the applicant's written request satisfactorily addressed required matters within Clause 4.6 of the LEP, the proposal was consistent with the objectives of both the landscaped area standard and the zone objectives (and thereby in the public interest) and it was considered compliance with the landscaped area standard was unnecessary and unreasonable in this case.

In terms of consideration submissions and community views, it was noted no submissions were received regarding the application.

VOTES

The decision was unanimous.

ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to the minimum landscape area satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the minimum landscape area development standard be varied to 34%, in respect to this application.

1. That Development Application No.18/0007 for Replacement of a fibre glass pool with a concrete swimming pool at Lot 21 DP 600761 41 Yarra Burra Street, Gymea Bay be approved, subject to the conditions contained in Appendix "A" of the report.

IHAP017-18	Proposal:	Torrens title subdivision of 2 lots into 3
	Property:	11 - 13 Winifred Avenue, Caringbah
	Applicant:	Eric Bateman
	File Number:	DA17/1271

There were no speakers for or against the proposal.

PANEL DECISION:

THAT:

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application No. 17/1271 for Torrens Title subdivision of 2 lots into 3 at Nos. 11 - 13 Winifred Avenue, Caringbah be approved subject to the conditions within the Council staff report to the Panel of 17 April 2018, with no changes.

REASON FOR THE DECISION:

The Panel generally agreed with the balance of environmental considerations outlined within the Council staff report. The proposed subdivision pattern, and the likely future development it will facilitate, is likely to be consistent with the character of the area (noting future development of buildings will need to be assessed when an application is made).

The Panel had regard to the applicant's Clause 4.6 variation request regarding the minimum lot depth standard within Clause 4.1A of Sutherland Shire LEP 2015. The proposed rear lot, while not meeting the depth control had a generous width (double the minimum) and also met the minimum overall size requirements, as did the two other lots. The proportions of the rear lot were such that a new building could be appropriately designed to reasonably minimise impacts on neighbours and achieve core planning controls, also aided by the slope of the site down and away from the rear boundary and the nature of the site and neighbouring development. The width of the rear lot facilitated siting with generous side setbacks and a landscaped setting, important in considering the interface with neighbours.

The Panel formed the view the applicant's written request satisfactorily addressed required matters within Clause 4.6 of the LEP, the proposal was consistent with the objectives of both the subdivision size standard and the zone objectives (and thereby in the public interest) and it was considered strict compliance with the lot width standard was unnecessary and unreasonable in this case.

In terms of consideration submissions and community views, it was noted no submissions were received regarding the application.

VOTES

The decision was unanimous.

ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

1. Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the variation to the lot depth development standard satisfies the relevant provisions of Clause 4.6 and is therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and that the lot depth development standard be varied to 21.95m, in respect to this application.
2. That Development Application No. 17/1271 for Torrens Title subdivision of 2 lots into 3 at Lot 30 and Lot 31 DP 19821 (Nos. 11-13) Winifred Avenue, Caringbah be approved, subject to the conditions contained in **Appendix "A"** of the report.

IHAP018-18	Proposal:	Torrens title subdivision of 1 lot into 3, demolition of part of the existing dwelling, driveway and footpath construction
	Property:	696 Port Hacking Road, Dolans Bay
	Applicant:	Richard Whitfield
	File Number:	DA17/0992

Speaking against the proposal were David Issacs and Jeni Wilcock. Speaking for the proposal were Peter Couvaras (Architect), Lyndal Wynne (Planner) and Richard Whitfield (owner).

PANEL DECISION:

THAT:

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application No.17/0992 for Torrens Title subdivision of 1 lot into 3, demolition of part of the existing dwelling, driveway and footpath construction at 696 Port Hacking Road, Dolans Bay be refused for the following reasons:

1. The site is unique in shape and size and is located in an environmental zone. While the surrounding subdivision pattern was mixed, two-lot subdivisions were more common, particularly to the north-west where the lot depths were similar.
2. The site has its most sensitive interfaces at the street front (in terms of significant vegetation, adjoining heritage item and streetscape issues) and the rear to the river/bay (in terms of visual impacts and natural environmental impacts). These are the portions of the site that are the narrowest and where the non-compliance with the lot width development standard occurs.
3. The Panel was not satisfied that the applicant's Clause 4.6 request demonstrated that either a better planning outcome resulted from the non-compliance nor that there were sufficient environmental planning grounds to justify the contravention of the lot width development standard.
4. The Panel was not satisfied that the proposal is consistent with the objectives of the development standard (particularly Clause 4.1(1)(c)) nor the objectives of the E4 Environmental Living zone, and therefore granting consent would not be in the public interest.
5. While the Panel noted the Council staff recommendation for approval, a two-lot subdivision would be appropriate for the site and in the circumstances, consistent with the staff view expressed at the pre-DA stage.

REASON FOR THE DECISION:

The reasons for the decision are summarised in the decision above.

The Panel had regard to the views of the community, insofar as the written submissions regarding the application and the presentations to the Panel meeting, and generally agreed the proposal should not be supported, although the Panel was of the view it may be acceptable in a revised 2-lot

form. The western neighbour's concern regarding safety and fencing was not determinative, and the side fencing issue could be resolved between neighbours now or in the future.

VOTES

The decision was unanimous.

ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

1. Pursuant to the provisions of Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the written submission in relation to the requested variations detailed below satisfy the relevant provisions of Clause 4.6 and are therefore supported. It is recommended that the provisions of Clause 4.6 be invoked and these development standards be varied as detailed below, in respect to this application.

Development Standards	Clause	Requirement	Proposal	% Variation
Minimum lot width - Lot 1	4.1A(2)	18m	13.7m	24%
Minimum lot width - lot 3	4.1A(2)	18m	14m	22%

2. That Development Application No. 17/0992 for Torrens title subdivision of 1 lot into 3, demolition of existing dwelling, driveway and footpath construction at Lot B DP 407493 (No. 696) Port Hacking Road, Dolans Bay be approved, subject to the conditions contained in Appendix "A" of the report.

IHAP019-18	Proposal:	Demolition of existing structures, construction of a dual occupancy, 2 in-ground swimming pools and cabanas and Torrens Title subdivision
	Property:	5 Bligh Street, Kirrawee
	Applicant:	5 BSK Pty Ltd ATF 5 BSK Unit Trust
	File Number:	DA17/1317

Speaking against the proposal were David McGrath, Joanna McGrath, David Rogerson and Lynne Forsythe. Speaking for the proposal was Lee Fretten (Planner) and Dory Bejjani (owner).

PANEL DECISION:

THAT:

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application No. 17/1317 for demolition of existing structures, construction of a dual occupancy, 2 in-ground swimming pools and cabanas and Torrens Title subdivision at 5 Bligh Street, Kirrawee be approved subject to the conditions within the Council staff report to the Panel of 17 April 2018, with the following amendments:

(a) A new Condition 1A to state:

1A Revised Plans for Driveways

The plans shall be amended to revise the driveway design to ensure that both dwellings are able to park a car in front of the garage on each lot, within the lot boundaries, while minimising the shared driveway crossing width at the kerb and property boundary as far as possible. The revised plan shall be to the written satisfaction of the Council prior to the issue of a Construction Certificate.

Reason: To allow the possibility of an additional off-street parking space to meet potential demand.

(b) Revision of Condition 1 to require all listed plans to be revised (as may be required), to be consistent with the revised plans submitted to satisfy Condition 1A, to the written satisfaction of Council prior to the issue of a Construction Certificate, and Condition 1 be updated accordingly.

REASON FOR THE DECISION:

The Panel generally agreed with the balance of environmental considerations outlined within the Council staff report. The proposal was for a use and of a form envisaged by the planning controls. The use is permissible in the zone (and not unique to the area) and the buildings complied with all development standards in the LEP and all key DCP controls. The DCP non-compliance with a front entrance was very minor and the control essentially sought front entrances to be integrated into the front façade, which was achieved.

The proposed dwellings, pools and cabanas were appropriately sited, while the nature of the site, adjoining development, proposed design and mitigation measures incorporated into the design (such as high windows) and regulated through conditions of consent, were appropriate.

The Panel had regard to the views of the community, insofar as the written submissions regarding the application and the presentations to the Panel meeting. It was clear the main concern related to parking and traffic concerns in the surrounding area. These matters were not for the Panel to regulate, but for the Council in consultation with the community. At the same time, the Panel was of the view a more practical parking solution could be achieved by modification of the driveways to the proposed dwellings (while still meeting landscaped area requirements), to allow an additional car space forward of the garages for both dwellings, through a design amendment.

The use, scale and density of the proposal was entirely consistent with the applicable planning controls and the parking provided met the DCP controls. There was simply no reasonable grounds upon which to refuse the proposal. The Panel agreed with the response to issues raised in submissions, as contained in the Council staff report.

VOTES

The decision was unanimous.

ASSESSMENT OFFICER'S RECOMMENDATION

THAT:

1. Pursuant to the provisions of Section 4.16 of the *Environmental Planning and Assessment Act, 1979*, and in accordance with the delegated authority issued by the General Manager of Sutherland Shire Council, Development Application No. 17/1317 for the demolition of existing structures, construction of a dual occupancy, 2 inground swimming pools and cabanas and torrens title subdivision at Lot 6 DP 25529 5 Bligh Street, Kirrawee is determined by the granting of development consent subject to the conditions (Appendix "A").

The Meeting closed at 9.00pm.