



Report of Meeting

Independent Hearing and Assessment Panel

Tuesday, 15 May 2018

6:00pm

Council Chambers

4-20 Eton Street, Sutherland

SUTHERLANDSHIRE

PRESENT: Chairles Hill (Chair), Julie Savet Ward and Mark Carleton

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 were no declarations of interest.

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| IHAP026-18 | Proposal: | CONSTRUCTION OF A DETACHED CARPORT AND A DECK |
| | Property: | LOT 5 DP 5670 (NO. 14) THORP ROAD, WORONORA |
| | Applicant: | AF DESIGN |
| | File Number: | DA18/0189 |

No-one spoke 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. 18/0189 for construction of a detached carport and a deck at 14 Thorp Road, Woronora be approved subject to the conditions contained in Appendix "A" of the Council's assessment report.

REASON FOR THE DECISION:

The proposed development is permissible with Council consent.

The proposal includes a variation to the foreshore building line development standard. A variation to the standard has been provided in writing by the applicant justifying the variation. The Panel discussed the variation, acknowledged the minor nature of the variation and considered it satisfactory subject to conditions which have been provided in Council's report.

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

The Panel considered that the application will not result in any unreasonable impacts on the environment or the amenity of adjoining residents, and as such considered the application suitable for approval.

The Panel also noted that there were no submissions in respect of the subject 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 foreshore building line 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 foreshore building line development standard be varied in respect to this application.

1. That Development Application No. 18/0189 for construction of a detached carport, attached rear deck and stairs at Lot 5 DP 5670 (No. 14) Thorp Road, Woronora is recommended to be approved, subject to the conditions contained in Appendix "A" of the report.

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| IHAP027-18 | Proposal: | DEMOLITION OF EXISTING STRUCTURES AND CONSTRUCTION OF A RESIDENTIAL FLAT BUILDING |
| | Property: | LOTS 1 & 2 DP 416406 (NOS. 222-224) SYLVANIA ROAD & LOTS 3 & 4 DP 31029 (NOS. 30-32) PINNACLE STREET, MIRANDA |
| | Applicant: | JIACHENG WANG |
| | File Number: | DA17/0381 |

Speaking for the proposal was Julie Hodder (Planner) and Junyi Zhu (Architect). There were no speakers in opposition to the proposed development.

PANEL DECISION:

THAT:

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application No. 17/0381 for demolition of existing structures and construction of a residential flat building at 222-224 Sylvania Road & 30-32 Pinnacle Street, Miranda be granted deferred commencement development approval and subject to the conditions contained in Appendix "A" of the Council's assessment report and subject to the deletion of Condition 3(iii) and amendment to Condition 39A to require 83 car spaces to be provided for residential dwellings in lieu of the 76 required by the draft conditions.

REASON FOR THE DECISION:

The proposed development is for a residential flat building which is to be located on the portion of the land that is within the R4 High Density Residential and is a use which is permissible with Council consent in that zone.

The proposal includes a variation to the height development standard in the SSLEP 2015, as well as a minor variation to balcony width and apartment depth in the ADG, and a variation to setback controls SSDCP 2015.

A variation to the SSLEP 2015 height standard has been provided in writing by the applicant justifying the variation. The Panel discussed the variation, acknowledged the site's slope as well as the proposed building's compatibility with the recently other approved residential flat buildings in the locality and considered it satisfactory subject to conditions which have been provided in Council's report.

The Panel also noted the other variations required by the applicant and considered them to be acceptable.

Based on information provided by the applicant in relation to parking provision, the Panel was satisfied that additional parking was not required, and therefore concluded that Condition 3(iii) was no longer required, and Condition 39A be subsequently amended accordingly.

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

The Panel considered that the application will not result in any unreasonable impacts on the environment or the amenity of adjoining residents, and as such considered the application suitable for approval.

The Panel also noted that there were no submissions in respect of the subject 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 height of buildings 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 25m height of buildings development standard be varied to 25.7m, in respect to this application.
2. Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application No. 17/0381 for demolition of existing structures and construction of a residential flat building at 30 – 32 Pinnacle Street, Miranda (Lot 3 DP 31029, Lot 5 DP 31029) and 222 -224 Sylvania Road, Miranda (Lot 1 DP 416400, Lot 2 DP 416400) is determined by the granting of a deferred commencement development consent subject to the conditions contained in Appendix A.

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| IHAP028-18 | Proposal: | DEMOLITION OF EXISTING STRUCTURES AND TORRENS TITLE SUBDIVISION OF 1 LOT INTO 2 LOTS |
| | Property: | LOT 8 DP 11964 (NO. 176) FOWLER ROAD, ILLAWONG |
| | Applicant: | AUSTRALIAN SURVEY SOLUTIONS PTY LTD |
| | File Number: | DA17/0792 |

Speaking for the proposal was Paul Brandon (Surveyor & Bushfire Consultant) and George Habambo (Owner).

Representing the objectors were Scott Barwick on behalf of the owner at 174 Fowler Road, and Ricky Taylor the owner of 178 Fowler Road.

PANEL DECISION:

THAT:

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application No. 17/0792 for demolition of existing structures and torrens title subdivision of 1 lot into 2 lots at 176 Fowler Road, Illawong be approved subject to the conditions contained in Appendix "A" of the Council's assessment report with the addition of the following Deferred Commencement condition:

The internal driveway profile, parking and manoeuvring areas must be designed in accordance with the approved architectural plans except where modified by the following:

- i) Align with Access and Alignment levels issued by Council's Public Domain Unit.
- ii) Comply with AS2890.1 (2004) in relation to the design of vehicular access and transitions.
- iii) The driveway must be widened to include a 5.5m wide long passing bay for 3m adjacent to the front boundary at -9% grade.
- iv) The maximum longitudinal grade of the driveway must not exceed 25%.
- v) A 600mm setback planted with screen planting must be provided between the southwestern boundary and back of retaining wall for the full length of the Right of Carriageway.
- vi) The internal driveway and car parking area must be paved or concreted and must be finished in materials other than plain or exposed aggregate concrete.
- vii) Provide adequate sight distance for the safety of pedestrians using the footpath area.
- viii) Barriers shall be provided to the western side of driveway in accordance with Clause 2.4.5 of AS2890.1 (2004) where the drop from the edge of the driveway exceeds 600mm. Where the drop to the edge is less than 600mm, a 150mm kerb shall be provided.
- ix) Balustrades are to be provided in accordance with the BCA for pedestrian access ways where required and powder coated / painted in a dark recessive colour.

- x) The Right of Carriageway easement is to be shown over the entirety of the physical vehicular and pedestrian access way including driveway, footpaths and all necessary barriers/balustrades.
- xi) Conduits for services are to be provided within the driveway pavement. Services includes all necessary utilities and telecommunication.

REASON FOR THE DECISION:

The proposed development being for demolition of existing structures and land subdivision is a permissible use within the E3 Environmental Management zone.

The proposal includes a variation to the minimum lot width in the E3 zone.

A variation to SSLEP 2015 standard has been provided in writing by the applicant justifying the variation. The Panel discussed the minimal lot width variation, acknowledged the prevailing pattern of subdivision in the locality, acknowledged that there would be no change to the width of the proposed lots when compared to the existing lot and considered it satisfactory subject to conditions which have been provided in Council's report.

In terms of consideration of submissions made in response to the public exhibition of the proposed development and community views at the Panel meeting, the Panel agreed with the staff's consideration of the issues, and noted that all matters, had been adequately addressed by conditions contained in the Council's assessment report, including, but not necessarily limited to, the implication of future development from the proposed subdivision, justification for the Section 4.6 variation, perceived incompatibility with zoning objectives, extent of the asset protection zone, and alternative locations for the new access road.

The Panel was of the view however that there should be one additional condition requiring the provision of a landscape strip along the southern boundary of the site to increase the amenity of adjoining neighbours, and this had been proposed as a Deferred Commencement condition of consent. This condition replaces condition 10A of Council's draft conditions of approval. The application was assessed by the Panel having regard to the Heads of Consideration under Section 4.15 of the Environmental Planning and Assessment Act.

The Panel considered that the application will not result in any unreasonable impacts on the environment or the amenity of adjoining residents, and as such considered the application suitable for approval.

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 minimum subdivision width at the building line 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 subdivision width at the building line development standard be varied to 13.405 metres for both Lot 1 and Lot 2, in respect to this application.

2. That Development Application No. 17/0792 for demolition of existing structures and torrens title subdivision of 1 lot into 2 lots at Lot 8 DP 11964, (No. 176) Fowler Road Illawong be approved, subject to the conditions contained in Appendix "A" of the report.

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| IHAP029-18 | Proposal: | DEMOLITION OF SOME EXISTING STRUCTURES, CONSTRUCTION OF MULTI-DWELLING DEVELOPMENT CONTAINING 7 DWELLINGS INCLUDING ADAPTIVE RE-USE OF EXISTING HERITAGE-LISTED CHURCH BUILDING AND 7 LOT STRATA SUBDIVISION |
| | Property: | LOTS A & B DP 303739, LOTS 13 & 15 DP 6585 (12 - 14) WILSHIRE AVENUE, CRONULLA |
| | Applicant: | TRADERS IN PURPLE 112 PTY LTD |
| | File Number: | DA17/0969 |

Speaking for the proposal was Charles Daoud (Applicant), Jeff Mead (Planner) and Adrian Hernandez (Architect)

Speaking against the proposal was Peter Sadler, Alexander McKenzie, and Shane Orr.

PANEL DECISION:

THAT:

Pursuant to the provisions of Section 4.16 of the Environmental Planning and Assessment Act, 1979, Development Application No. 17/0969 for demolition of some existing structures, construction of a multi-dwelling development containing seven dwellings including adaptive re-use of the existing heritage-listed church building and 7 lot strata subdivision be granted deferred commencement development approval subject to the conditions contained in Appendix "A" of the Council's assessment report, as amended by the following additional condition:

Condition 1 ii) The Level 1 of Dwelling 4 must be removed.

REASON FOR THE DECISION:

The proposed development being for demolition of some existing structures and construction of a multi-dwelling development containing 7 dwellings including, adaptive reuse of an existing heritage listed church building, and 7 lot strata subdivision, is a use permissible with Council consent in the R2 Low Density Residential zone pursuant to the provisions of Sutherland Shire Local Environmental Planning Instrument 2015.

The proposal includes a variation to the landscaped area development standard in SSLEP 2015, as well as variations to setbacks, the depth of level 1 from the property boundary, solar access and carparking development standards.

A variation to SSLEP 2015 landscape standard has been provided in writing by the applicant justifying the variation. The Panel has discussed the variation, acknowledged the constraints imposed by the

heritage significance of the church and its curtilage and considered it satisfactory subject to conditions which have been provided in Council's report.

In terms of consideration of submissions made during the public exhibition and submissions made to the Panel at the meeting, the Panel agreed in the main with the staff consideration of the issues, and noted that any outstanding matters, had been adequately addressed by conditions contained in the Council's assessment report.

However whilst the Panel noted that the design of the development was predicated on protecting the heritage item located on the site, it was concerned that insufficient consideration had been given to the impact of the development on properties directly adjoining the proposed development in relation to the perceived incompatibility of the proposed development with the character of other development in this locality, proximity of the eastern building of the proposed development to neighbours, and the perceived loss of privacy and solar access to 10B Wilshire Avenue.

In relation to compatibility the Panel had regard for the decision of the Land and Environment Court Case *GPC No. 5 (Womberra Pty Ltd v Wollongong City Council (2003) NSWLEC 268* and *Project Venture Developments v Pittwater Council (2005) NSWLEC 191*, established Planning Principles to assist in the evaluation of how development should respond to the character of its environment.

In that regard the Panel noted that:

There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.

The Panel was satisfied that the proposed development was capable of existing together in harmony, despite the differences in density, scale and appearance.

However the Panel is also required to assess as part of the compatibility test, the likely impact of the proposed development on adjoining development.

In that regard, whilst the Panel acknowledged that the solar access to 10B Wilshire A did not comply with the requirements of Council DCP..

The Panel also assessed whether there was an opportunity to move the proposed building away from the eastern boundary of the site to increase the setback from that boundary, but concluded that such a move had the potential to compromise the setting of the heritage item. The Panel was also mindful of

the fact that the setbacks on the eastern elevation were generally consistent with Council requirements, and not dissimilar to those of the existing dual occupancy at 10B Wilshire Avenue.

In relation to the rear of the site the Panel noted that the applicant had sought to use the existing footprint of the single storey building located at the rear, to accommodate a first floor extension, practically on the rear boundary of the site, providing no setback to the rear boundary, and contrary to the Council's established 40%/60% rule.

In that regard the Panel was of the view that the amenity of all concerned could be improved by the deletion of the first floor of dwelling 4 at the rear of the site.

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

The Panel considers that the application will not result in any unreasonable impacts on the environment or the amenity of adjoining residents, and as such considered the application suitable for approval.

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 Clause 6.14 – Landscaped area in certain residential, business, industrial and environmental protection zones 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 landscaped area development standard be varied from 35% (624m²) to 32% (571m²), in respect to this application.
2. That Development Application No. 17/0969 for Demolition of some existing structures, construction of multi-dwelling development containing seven dwellings including adaptive re-use of existing heritage-listed church building and 7 lot strata subdivision at Lot A DP 303739, Lot 13 DP 6585, Lot 15 DP 6585, Lot B DP 303739, 12 - 14 Wilshire Avenue, Cronulla is determined by the granting of a deferred commencement development consent subject to the conditions contained in Appendix A.

The Meeting closed at 9.00pm.