



Report of Meeting

Sutherland Shire Local Planning Panel

Tuesday, 16 March 2021

6.00pm

e-Meeting

SUTHERLANDSHIRE

PANEL: Jason Perica (Chair), Julie Savet Ward, Jan Murrell, Mark Carleton

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

Disclosures of Interest: File Number: 2015/14239 - There were no declarations of interest.

Apologies

There were no apologies

NOTE

All interested parties were advised of the changed meeting arrangements and given the opportunity to address the Panel during the teleconference.

The teleconference was recorded, and is available on Council's website.

SSLPP016-21 Planning Proposal Report - 13 Endeavour Road, Caringbah
File Number: 2020/389086

There were no speakers against the proposal.

Speaking for the proposal were David Lousick & Stephen White.

PANEL DECISION:

The Planning Proposal for the site at 13 Endeavour Road, Caringbah, proposes to increase permissible maximum building height to 50m and allow additional uses in the zone of 'tourist and visitor accommodation'; 'function centre'; 'pub'; and 'shop'.

The Panel has differing views on whether the Planning Proposal should proceed, either in an amended form, or not at all. The decision was split, with the Chair Jason Perica and Mark Carleton of the view the matter does not warrant referral to the Minister for Planning and Public Spaces under Section 3.34 Environmental Planning and Assessment Act 1979 for Gateway determination. The other two Panel members support the Planning Proposal, but with amendments before proceeding. Given the voting, the casting vote of the Chair was used that the proposal not proceed to gateway determination.

The key issues relate to strategic merit and site-specific merit, as outlined below.

Strategic Merit

The majority of the Panel (with the Chair's casting vote) were of the view that the proposal lacked strategic merit and should not be supported. Specifically:

1. The proposal is contrary to the strategic direction within the District Plan of "retain and manage" employment lands and a recent overview by SGS Economics.
2. In principle, the proposed addition of uses in the zone is equivalent of allowing higher order or higher value uses, which is likely to undermine the primacy of employment uses. The additional uses proposed are also likely to undermine the role of retail business centres and would add a quasi-residential use (albeit not permanent accommodation), which has the potential to undermine ongoing use and flexibility of the B7 and surrounding industrial zones.
3. There is strategic logic to the relatively-recent Council decision to zone the site B7, to support employment containment in the Shire and diversity of employment zones. This occurred recently (2015) and there has been no fundamental strategic shift since that time, other than a large land use vacating the site, known as likely at the time. Additional uses being permissible is likely to lead to land fragmentation as the proposed higher order additional uses are proposed through DAs, which is likely to undermine the flexibility to provide employment diversity and opportunities from a large site in single ownership, including which may benefit the wider region. There is no apparent anchor use or key tenant(s) from which the supporting ancillary uses can be derived. In any case the key anchoring employment uses would be permissible in the

current zone and decisions about additional permitted uses to support those existing permissible uses could occur at a later stage, when there is greater certainty regarding the outcome. This should also be done more holistically with other B7 zones.

4. The proposed changes do not appear to have been informed by wider analysis and review of employment lands (B7 or otherwise). The District Plan (Priority 10) warrants an approach to protect the primacy of employment uses for the site and wider network of employment zones.
5. The site is separated from the Sharks site by playing fields and the changes at that site do not justify the additional land use changes proposed at this site.

Given the above concerns and conclusions that the proposal lacks strategic merit, the site-specific considerations related to height and form do not apply. However, if the proposal did not include additional uses, but just height, Mr Perica and Carleton saw scope for height increases although were concerned with the disparity between loose height proposed in the LEP/Planning Proposal and a “Concept Plan” being used to justify the proposal. The proposed LEP height limits by the applicant were not appropriate.

Ms Murrell and Ms Savet Ward consider the additional uses should be limited to a hotel, function centre and ‘pub’. This is in order to address strategic merit concerns related to protecting the primacy of employment uses, South District Plan objectives to retain and manage employment and urban services lands, provide some flexibility and reduce potential fragmentation. These additional uses are seen to complement the B7 zone with the primary focus to retain employment and the concept of a business park for the Shire. As such, the proposed additional uses outlined in the Planning Proposal should be amended as follows:

- Hotel only (with a cap on GFA) and no tourist and visitor accommodation;
- Delete shop as a separate use (noting DAs can include ancillary uses); and
- Pub and function centre (with a cap on GFA).

Site-Specific

As mentioned, this does not apply as the majority of the Panel formed the view the proposal lacked strategic merit. The Planning Proposal is only supported by Ms Murrell and Ms Savet Ward as having site-specific merit if the following changes are made:

- The 50 m height – must be confined to a central triangular portion of the site as shown on the attached map, figure 1. and inserted into the draft LEP as a map. This is to mitigate adverse impacts in particular overshadowing, for the Solander playing fields and surrounding residential areas, and minimise tensions between the height standard and the FSR, which is recommended to remain at 1.5:1. The remainder of the Exchange precinct, would then transition down appropriately to the adjoining boundaries.

- For the warehouse building, the existing height should be retained with an incentive clause or similar to allow height up to 25m that encourages adaptive reuse/ retention of the large existing footprint at the lower levels. Heights should then step down to 20m at the northern and eastern edges, informed by urban design, overshadowing analysis and ecological constraints;
- Increase the 40m foreshore buffer to 50m and secure this with objectives and controls. This should also consider and demonstrate augmentation to adjoining public access to provide a public benefit (such as bicycle and pedestrian linkages, rest areas) as well as planting of ecological communities to support and enhance the protection and functioning of the important neighbouring wetlands;
- A suggested height map by Ms Murrell and Ms Savet Ward is below:



- Mechanisms to ensure a Masterplan led approach which ensures a high quality public domain;
- Mechanisms to incentivise business and primary employment;
- Objectives and numerical controls for landscape treatments including controls for tree canopy coverage on the site and landscaped setbacks (without parking) of 8m to Captain Cook Drive, 4m to Endeavour Road, and 12m to Solander Field.
- Objectives and controls to encourage active uses at ground floor to activate the ground plane.

- Objectives and controls to encourage flexible built forms to cater for changing industrial trends and, uses.
- Objectives and controls to achieve sustainable development, including passive and active energy, reduced potable water use and waste reduction in line with circular economy principles
- A through-site public access, protected by legal mechanisms.
- Replacement tree rate to be amended to 8:1, consistent with DCP Chapter 39.
- The above issues are to be addressed by the applicant before a draft LEP is exhibited and an accompanying site specific DCP/concept plan placed on exhibition at the same time. This will provide greater certainty in the planning process.

REASON FOR THE RECOMMENDATION:

The reasons and rationale are outlined above. Given the above, the Panel recommends to Council that the Planning Proposal not proceed to Gateway.

VOTES

The decision was 2-2, as outlined previously. Mr Perica as chair used his casting vote to form a majority decision.

SSLPP017-21	Proposal:	DA20/0766 - Demolition of existing structures and construction of a residential flat building
	Property:	Lot 2 DP 31460, (No. 99) Willarong Road, Caringbah
	Applicant:	Corona Projects Pty Ltd
	File Number:	DA20/0766

There were no speakers against the proposal.

Speaking for the proposal were Anthony Boskovitz, Peter Courvaras and Alex Machkevitch.

PANEL DECISION:

That Development Application No. 20/0766 for Demolition of existing structures and construction of a residential flat building at Lot 2 DP 31460 99 Willarong Road, Caringbah is determined by the refusal of development consent for the reasons outlined below.

- 1 The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal does not satisfy the objectives of the R4 High Density Residential Zone of SSLEP 2015 in terms of high standard of urban design and residential amenity in a high quality landscape.
2. The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(i) of the Environmental Planning and Assessment Act 1979, as the proposal fails to satisfy Clauses 6.16 and 6.17 Urban Design – General and Residential Accommodation of SSLEP 2015. The Panel generally agreed with concerns raised by the Design Review Forum, which have not been satisfactorily resolved.
3. The application is considered unacceptable pursuant to the provisions of 4.15(1)(a)(iii) of the Environmental Planning and Assessment Act, 1979 as the proposed development does not comply with design principles related to context, built form and scale and amenity (within and adjoining the site) in the Apartment Design Guide (ADG).
4. The application is considered unacceptable pursuant to the provisions of s4.15(1)(a)(iii) of the Environmental Planning and Assessment Act 1979, in that the proposal generally fails to satisfy the objectives and controls contained within Chapter 7 of Sutherland Shire Development Control Plan 2015 (SSDCP 2015).

REASON FOR DECISION:

As the application was refused, the reasons are contained in the decision above.

The Panel generally agreed with the assessment of the proposal as contained in the Council staff assessment report, although modified the recommended reasons for refusal to concentrate on key issues.

The Panel agreed with Council staff conclusions regarding site isolation principles and the site width not necessarily precluding development of the site, given the circumstances and process followed relating to site isolation and contextual issues relating to site width.

The Panel also had regard to the advice from the Design Review Forum and generally agreed with the nature of the suggested improvements, which had not been resolved.

VOTES:

The decision was unanimous.

SSLPP018-21	Proposal:	DA20/0763 - Demolition of existing structures, construction of an attached dual-occupancy and two (2) swimming pools
	Property:	Lot 1 DP 511429, (No. 23) Woodlands Road, Taren Point
	Applicant:	Laurie Liskowski
	File Number:	DA20/0763

There were no speakers against the proposal.

Speaking for the proposal were Benjamin Black, Laurie Liskowski & Andrew Stewart.

PANEL DECISION:

That Development Application No. 20/0763 for Demolition of existing structures, construction of an attached dual-occupancy and two (2) swimming pools at Lot 1 DP 511429 23 Woodlands Road, Taren Point is determined by the refusal of development consent for the reasons outlined below.

1. The proposed development fails to comply with Clause 4.3 – Height of Building requirements of Sutherland Shire Local Environmental Plan 2015. No written request pursuant to Clause 4.6 has been provided to demonstrate that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify contravening the development standard.
2. The proposed development fails to comply with Clause 4.4 – Floor Space Ratio requirements of Sutherland Shire Local Environmental Plan 2015. No written request pursuant to Clause 4.6 has been provided to demonstrate that compliance with the development standard is unreasonable or unnecessary and that there are sufficient environmental planning grounds to justify contravening the development standard.
3. The application is considered unacceptable pursuant to the provisions of Section 4.15 1(a)(i) of the Environmental Planning and Assessment Act, 1979, in that the proposed development fails to comply with Schedule 1 Cl. 28 Use of certain land in Zone E4 Environmental Living of Sutherland Shire Local Environmental Plan 2015 and the written submission in accordance with Clause 4.6 is not supported on the basis it is inconsistent with the objectives of the zone in relation to: low-impact residential development; development that preserves and enhances the natural landscape setting of the locality; and, ensure the character of the locality is not diminished by the cumulative impacts of development. The proposal is not a well-designed outcome on the site sufficient to vary this development standard, particularly in relation to the proposed basement, perceived number of levels, impact on the streetscape, impact on the landform and impact on the scenic and landscape qualities of the site's setting.
4. The proposed development fails to comply with Clause 6.16(1)(a), (b)(i)(ii) , (c) & (e) – Urban design – general and 6.17(b), (c), (e) & (f) - Urban design – residential accommodation areas in Sutherland Shire Local Environmental Plan 2015.

5. The proposed development fails to satisfy the objectives and controls within Chapter 4 of SSDCP2015 Dual Occupancy in Zone E4 Environmental Living. Specifically, Clauses 1.2.1, 1.2.5, 1.2.8, 1.2.10, 3.2.1, 3.2.3, 3.2.4, 3.2.5, 4.2.1, 5.2.9 and 6.2.1.
6. The proposed development fails to satisfy the objectives and controls within Chapter 34 of SSDCP2015 Ancillary Development. Specifically, Clauses B.5.3.3, B.5.3.1 and B.5.4.2.
7. The proposed development will result in adverse amenity impacts onto neighbouring properties and public domain as a result of the proposed bulk and scale and visual amenity impacts.
8. Approval of the development will create an undesirable present and is therefore not in the public interest.

REASON FOR DECISION:

As the application was refused, the reasons are contained in the decision above. However, in this instance some elaboration is warranted.

The Panel generally agreed with the assessment of the proposal as contained in the Council staff assessment report that it should be refused.

There were areas of dispute between the applicant and the Council staff regarding the calculation of the FSR and the Landscaped Area. These were important matters, as they were threshold issues related to whether the Panel was the determining authority.

The differences of opinion were unfortunately not made clear in the assessment report. The Panel sought additional information from Council staff regarding these differences. It appeared the differences related to landscaped area calculations arose from Council staff not agreeing to include the side setback areas in the calculation, which were shown on architectural plans and the landscape plan as being landscaped. While the Panel understood and agreed in principle with scepticism regarding whether such areas would be either provided or maintained as landscaped area due to their role and likely function as side access for the dwellings, the Panel was bound by the LEP definition, DCP provisions, lack of any controls to exclude such areas and the plans before it. On this basis, the Panel favoured the position of the applicant.

In terms of the FSR, the difference between the applicant and Council staff related to whether the area to the east of the basement parking area and the stairs and lift to the level above should be included or excluded from GFA calculations. These areas were enclosed and outside the parking/storage areas, accessed by an internal door to the parking/storage area and then the dwellings above. The access areas in dispute also provided other access to a landscaped area to the front of the dwellings and an enclosed bin area, not being carparking or within the parking area, as well access to basement storage to the side of the parking areas. The area in dispute could not be classified as common vertical circulation. This was common ground. However, they were excluded by the applicant on the basis of being "access to parking". The Council staff disagreed with this. There are two aspects to consider: (a) whether the access to parking should be taken to mean vehicular access; and (b)

whether access to parking could be excluded where it provided access to other areas. This was not beyond doubt, and the Panel on balance favoured the approach by Council staff. To accept the applicant's position requires demarcation of where the access between parking and other parts of a dwelling begins and ends, even where it includes access beyond just vehicular access. It would seem logical for this demarcation to be within the parking area. On this basis, a written variation request to vary the FSR standard was needed, which not supplied and therefore the Panel could not approve the DA.

It was not clear if the applicant was disputing the calculation of height by Council staff, for which there was also no Clause 4.6 written contravention request. It can be assumed so, given no such request was received. This was not raised by the applicant in the public meeting. The Panel favoured the conclusion by Council staff, who reconciled levels against the survey.

Despite the above technical issues, the Panel had concerns and did not support the design approach of including a basement area on this particular site. It was contrary to planning guidelines in the DCP and would lead to adverse streetscape, landscape setting and precedence issues. This was a fundamental aspect of the proposal, which was not supported.

VOTES:

The decision was unanimous.

SLPP019-21	Proposal:	DA20/0652 - Alterations and additions to an existing dwelling and construction of a swimming pool and inclinator
	Property:	Lot 41 DP 16140, (No. 12) Maroopna Road, Yowie Bay
	Applicant:	Scard Design
	File Number:	DA20/0652

There were no speakers for or against the proposal.

PANEL DECISION:

That Development Application No. 20/0652 for alterations and additions to an existing dwelling and construction of a swimming pool and inclinator at Lot 41 DP 16140 12 Maroopna Road, Yowie Bay be approved, subject to the conditions contained in Appendix B of the report, subject to Condition 1 (Plan Table) and Condition 2 being amended to make reference to the Materials Schedule submitted to Council 5 March 2021.

REASON FOR DECISION:

The Panel agreed with the overall environmental assessment of the proposal, as contained in the Council staff assessment report.

The Panel had regard to the applicant's Clause 4.6 request regarding contravention of the Building Height development standard within Clause 4.3 of Sutherland Shire LEP 2015 and formed the view that 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 proposal involves relatively minor alterations and additions to an existing dwelling, seeking adaption, reconfiguration and modest additions to improve the amenity of the dwelling, while not causing any significant impacts on the amenity of adjoining land or the built/natural environment. The building footprint on the site is not proposed to change to any significant degree. Where impacts exist, these are reasonably mitigated and managed by the design and recommended conditions of consent.

In terms of considering the views from submissions, the Panel noted there were no public submissions.

VOTES:

The decision was unanimous.

The Meeting closed at 7.31pm.