

|                                 |   |
|---------------------------------|---|
| <b>DATE OF DETERMINATION</b>    | Wednesday 13 December 2017  |
| <b>PANEL MEMBERS</b>            | Nicole Gurran (Acting Chair), Bruce McDonald, Steve Simpson and Michael Forshaw   |
| <b>APOLOGIES</b>                | Morris Iemma  |
| <b>DECLARATIONS OF INTEREST</b> | Cr. Simpson and Cr. Forshaw note nonpecuniary, nonsignificant interests due to Council's previous involvement with the DA16/1620. |

Public meeting held at Sutherland Shire Council, 4 Eton Street, Sutherland on 13 December 2017, opened at 11:45 am and closed at 3:20 pm.

#### **MATTER DETERMINED**

2016SSH001 – Sutherland Shire – DA-16/1620 at 42 Auburn Street and 99R Acacia Road North, Sutherland (AS DESCRIBED IN SCHEDULE 1)

#### **PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*, subject to the recommended conditions of consent, as amended below.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The reasons for the decision of the Panel were:

1. The proposed development will add to the provision of housing for seniors and aged care facilities, within the Sydney South District and the Sutherland Shire responding to increasing demand for such facilities.
2. The Panel has considered the Applicant's request to vary the development standard contained in Clause 4.3 of Sutherland Shire LEP 2015 relating to maximum building height. The Panel considers that in regard to Building A compliance with the standard is unreasonable and unnecessary in the circumstances of this case as that variation will not generate unacceptable impacts on nearby premises and remains consistent with the objectives of the standard. However, the Panel concurs with the assessment that requires that reduction in the height of Building B to a complying height in order to secure a satisfactory transition to the adjoining built form.
3. The proposed development adequately satisfies the relevant State Legislation and State Environment Planning Policies (SEPP) 55 – Remediation of Land, SEPP (Infrastructure) 2007 and SEPP 65 – Design Quality of Residential Apartment Development and its associated Apartment Design Guidelines.
4. The proposed development adequately satisfies the objectives and provisions of Sutherland Shire LEP 2015.

5. The proposed development as amended by the conditions of consent constitutes a built form, building scale and onsite parking arrangements that provides satisfactory integration with the existing mixed building form context in which it is placed, noting that the site is located on the Princes Highway entry to Sutherland Centre.
6. The Panel notes that during the public meeting the applicant advised the Panel that they agreed with all the requirements specified in the Voluntary Planning Agreement as referenced in Condition 3.
7. The proposed development, subject to the conditions imposed, will have no adverse impacts on the natural or built environments including the local ecology, riparian systems, operation of the local road system or the amenity of nearby residential premises.

In consideration of conclusions 1-7 above, the proposal is considered a suitable use of the site and approval of the proposal is in the public interest.

## CONDITIONS





The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- **Modify 2.A (ii)**  
Change 25% to 20%, as follows:  
*'20% of all parking spaces within the basement...'*
- **Modify 2.A (iii)**  
*'A total of 12 parking spaces for the visitors to the Wellbeing Centre and an additional four spaces allocated for café staff must be provided within the basement.'*
- **Modify Condition 3 (1)**  
The condition is modified to clarify that the VPA has been agreed, and is to read as follows:  
*'The VPA that has been offered by the Applicant has been accepted in principle by the body of Council, and requires:*  
*(a) As per draft conditions*  
*(b) As per draft conditions*  
*(c) As per draft conditions*  
*(d) As per draft conditions'*
- **Delete Condition 3 (f)**
- **Modify Condition 9**  
Replace 'construction' with 'occupation'.
- **Delete Condition 10**
- **Modify Condition 17 A**  
The second sentence is to conclude as follows:  
*'...prior to the release of the Construction Certificate for Phase 2 of the development.'*
- **Modify Condition 34 A**
  - Retitle 34(A) as 'Prior to Commencement of Works'
  - Paragraph one is to conclude as follows:  
*'...encountered during excavation and/or construction works and embellishment of the public reserve and land to be utilised.'*
  - Paragraph two is to read as follows:

*'The Unexpected Finds Protocol must be submitted to the satisfaction of Sutherland Shire Council, Manager of Environmental Science, prior to land transfer in accordance with Phase 1 of the development.'*

- **Modify Condition 34 B**

*'If unexpected contaminants are encountered during excavation and/or construction works on the rest of the site, the situation is to be assessed and managed in accordance with the Unexpected Finds Protocol, under the supervision of the supervising environmental consultant.'*

| PANEL MEMBERS   |  |
|---|--|
|  |  |
| Nicole Gurrán (Acting Chair)  | Bruce McDonald   |
|  |  |
| Michael Forshaw   | Steve Simpson  |