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| DATE OF DETERMINATION | 25 July 2017 |
| PANEL MEMBERS | Bruce McDonald (Acting Chair), Lindsay Fletcher, Steve Simpson and Kent Johns |
| APOLOGIES | Nicole Gurran, Morris Iemma |
| DECLARATIONS OF INTEREST | None |

Public meeting held at Sutherland Shire Council, 4 Eton Street on 19 July 2017, opened at 2:00 PM and closed at 3:15 PM.

MATTER DETERMINED

2016SSH003 – Sutherland – DA 16/1668 AT Lot B DP 373329, Part Lot D DP 373329, Lot A DP 373329, Lot C DP 373329, Part Lot D DP 373329, Part Lot B DP 373473, Lot 1 S/P 12439, Lot 2 S/P 12439, Lot 3 S/P 12439, Lot 4 S/P 12439, S/P 12439 24 - 38 Flora Street, Kirrawee (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 refuse the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

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

The decision was 3:1. In favour – Bruce McDonald, Lindsay Fletcher and Steve Simpson.
Against the decision – Kent Johns.

REASONS FOR THE DECISION

The reasons for the decision of the Panel were:





1. The panel accepts the recommendation of the planning assessment report to refuse the application and concurs with the reasons for refusal offered in support of that recommendation.
2. The Panel notes that the concurrence of Sydney Trains to the proposed development that is required in accord with Section 86 SEPP (Infrastructure 2007) has not been obtained and accordingly the Panel is not authorised to approve the subject application. In this regard the Council has received advice from Sydney Trains advising that the application is not supported in its present form.
3. While concurring with the reasons supporting the recommendation for refusal contained in the assessment report the Panel's principal reasons for refusal are:
 - a) The negative impact that a further supermarket of the scale proposed within Kirrawee would have on the role of surrounding centres, particularly Sutherland. In reaching this position the Panel is advised by the independent Assessment Peer Review conducted by DFP Planning Consultants which rebuts the fundamental economic assumptions of the applicant's position. The Panel is particularly concerned that the proposed development would shift the focus of retailing from Sutherland to Kirrawee which would be inconsistent with the strategic role of Town Centre planned for Sutherland under Councils adopted strategy and its designation as a District Centre under the Draft South District Plan.

- b) The negative impact a further supermarket of the scale, siting and design proposed would have on the existing economic elements, social qualities and physical composition of the existing and planned Kirrawee Village.

Accordingly, the proposed development is not considered a suitable development of the site and approval would not be in the public interest.

Kent Johns disagreed with the majority decision and proposed the following position:

1. That the report by officers be noted.
2. That the item stand deferred subject to the applicant:
 - a) Obtaining concurrence from Sydney Trains and RMS approval.
 - b) Addresses officer's concerns in regards to urban design as detailed in the report.
 - c) Addresses the S.T.I.F issues as identified.
3. That the Panel form the opinion that a further supermarket can be maintained in this locality.

| PANEL MEMBERS | |
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|  Bruce McDonald (Acting Chair) |  Lindsay Fletcher |
|  Steve Simpson |  Kent Johns |

| SCHEDULE 1 | | |
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| 1 | PANEL REF – LGA – DA NO. | 2016SSH003 – Sutherland – 16/1668 |
| 2 | PROPOSED DEVELOPMENT | Demolition of existing structures and construction of mixed use commercial development including Woolworths supermarket, Dan Murphy's liquor store, commercial tenancies, child care centre, parking, signage and associated facilities. |
| 3 | STREET ADDRESS | Lot B DP 373329, Part Lot D DP 373329, Lot A DP 373329, Lot C DP 373329, Part Lot D DP 373329, Part Lot B DP 373473, Lot 1 S/P 12439, Lot 2 S/P 12439, Lot 3 S/P 12439, Lot 4 S/P 12439, S/P 12439 24 - 38 Flora Street, Kirrawee |
| 4 | APPLICANT/OWNER | Ionic Management Pty Ltd |
| 5 | TYPE OF REGIONAL DEVELOPMENT | General development over \$20 million |
| 6 | RELEVANT MANDATORY CONSIDERATIONS | <ol style="list-style-type: none"> Environmental planning instruments: <ol style="list-style-type: none"> State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy No. 55- Remediation of Land (SEPP 55) Greater Metropolitan Regional Environmental Plan No. 2- Georges River Catchment Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015) Draft environmental planning instruments: Nil. Development control plans: <ol style="list-style-type: none"> Draft Sutherland Shire Development Control Plan 2015 (SSDCP 2015). Sutherland Shire Section 94 Contribution Plan Planning agreements: Nil. Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or Regulations The public interest, including the principles of ecologically sustainable development |
| 7 | MATERIAL CONSIDERED BY THE PANEL | <ul style="list-style-type: none"> Council assessment report: 29 June 2017 Written submissions during public exhibition: 8 Verbal submissions at the public meeting: <ol style="list-style-type: none"> Support – Nil Object – Rodney Huon and Steve Robson On behalf of the applicant – Tim Robertson SC, Giovanni Cirillo, Tim Rogers and James Turnbull |
| 8 | MEETINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none"> Site inspection on 19 July 2017 Final briefing meeting to discuss Council's recommendation, 19 July 2017, 1:30 PM. Attendees: <ul style="list-style-type: none"> <u>Panel members</u>: Bruce McDonald (Acting Chair), Lindsay Fletcher, Steve Simpson and Kent Johns. <u>Council assessment staff</u>: Annette Birchall, Mark Adamson and Evan Phillips. |
| 9 | COUNCIL RECOMMENDATION | Refusal |
| 10 | DRAFT CONDITIONS | N/A |