

DATE OF DETERMINATION	14 December 2022
DATE OF PANEL DECISION	13 December 2022
DATE OF PANEL MEETING	13 December 2022
PANEL MEMBERS	Helen Lochhead (Chair), Stuart McDonald, Heather Warton, Carol Provan, Kent Johns
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 13 December 2022, opened at 11:30am and closed at 12.20pm

MATTER DETERMINED

PPSSSH-103- Sutherland– DA-21/1251 – 6-20 Hinkler Avenue and 319-333 Taren Point Road Caringbah - Demolition of existing structures and construction of a mixed-use development (health service facility and residential units) with Torrens title and stratum subdivision.

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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Sutherland Local Environmental Plan 2015 (LEP), that has not demonstrated that:

- compliance with cl 4.3 (height of buildings) is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard.

Development application

The panel determined to refuse the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was 4:1; against the decision was Kent Johns.

REASONS FOR THE DECISION

The majority of the panel determined to not accept the Applicant's Clause 4.6 submission to vary the building height and did not support the proposed height on merit, and found that the amenity of the proposal unsatisfactory, particularly in relation to solar access to the apartments and the privacy and amenity of the ground floor units below street level; and refused the application for the reasons outlined in the council assessment report.

Kent Johns disagreed with the majority decision for the following reasons

The matter should be deferred to allow plans to be amended to address issues identified in the Council Officers assessment report.






Sutherland Council has a positive opinion on affordable housing being provided in the Sutherland Shire, and wishes to see greater choice and quantity. This application could, if undertaken with consideration to the Council officers' concerns, address this in a significant way.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- Traffic congestion and parking difficulties
- Overdevelopment
- Privacy and noise
- Impacts on amenity
- Affordable housing
- Loss of mature trees
- Lack of clarity and details
- Environmental impacts.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 Helen Lochhead (Chair)	 Heather Warton
 Stuart McDonald	 Carol Provan
 Kent Johns	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSSH-103- Sutherland– DA-21/1251
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a mixed-use development (health service facility and residential units) with Torrens title and stratum subdivision.
3	STREET ADDRESS	6-20 Hinkler Avenue and 319-333 Taren Point Road, Caringbah
4	APPLICANT/OWNER	Applicant: Adam Martinez, Landmark Group Australia Pty Limited Owner: Hinkler Ave 1 Pty Limited; Hinkler Ave 2 Pty Limited; Hinkler Ave 3 Pty Limited.
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Housing) 2021 ○ State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development (SEPP 65) ○ Apartment Design Guide (ADG) ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ Sutherland Local Environmental Plan 2015. • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Sutherland Development Control Plan 2015 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> • 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 Regulation • 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: 3 December 2022 • Clause 4.6 – Building Height • Written submissions during public exhibition: 15 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ John Lupa ○ On behalf of the applicant – Aaron Sutherland, Joseph Scuderi, Nick Byrne. <p>Total number of unique submissions received by way of objection: 15</p>

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Kick Off Briefing: 7 February 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Helen Lochhead (Chair), Stuart McDonald, Heather Warton ○ <u>Council assessment staff</u>: Amanda Treharne, Beth Morris, Ros Read ○ <u>Applicant representatives</u>: Adam Martinez, Aaron Sutherland, Nick Byrne, David Felicio, Joseph Scuderi • Briefing: 5 April 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Helen Lochhead (Chair), Stuart McDonald, Heather Warton, Carol Provan, Kent Johns ○ <u>Council assessment staff</u>: Amanda Treharne, Thomas Walters, Beth Morris, Vivian Tran, Hannah Painter, Ros Read • Briefing: 10 May 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Helen Lochhead (Chair), Heather Warton, Carol Provan, Kent Johns ○ <u>Council assessment staff</u>: Beth Morris • Briefing: 9 August 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Helen Lochhead (Chair), Stuart McDonald, Heather Warton, Carol Provan, Kent Johns ○ <u>Council assessment staff</u>: Amanda Treharne, Beth Morris, Ros Read • Final briefing to discuss council's recommendation: 13 December 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Helen Lochhead (Chair), Stuart McDonald, Heather Warton, Carol Provan, Kent Johns ○ <u>Council assessment staff</u>: Amanda Treharne, Beth Morris, Ros Read, Vivian Tran
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not Applicable