

DATE OF DETERMINATION	25 July 2023
DATE OF PANEL DECISION	24 July 2023
DATE OF PANEL BRIEFING	24 July 2023
PANEL MEMBERS	Annelise Tuor (Chair), Penelope Holloway, Glennis James, Carol Provan, Stephen Nikolovski
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 18 July 2023.

MATTER DETERMINED

PPSSSH-131 – Sutherland Shire Council – MA23/0006 – 3-23 Kingsway, Cronulla – Changes to development description, add hours of operation for a supermarket, delete design change conditions 2i), 2ii), 2iii) and 2iv), amend condition 37, and 44 and internal layout changes.

PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings and the matters listed at item 8 in Schedule 1,

Modification application

The panel determined to approve the modification application pursuant to section 4.56 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The panel determined to approve the application for the reasons outlined below:

- The application satisfies the requirement that the development to which the consent as modified relates will remain substantially the same development as that originally granted consent.
- The proposal adequately maintains consistency with relevant policies and standards and the future operation of the supermarket space / loading dock is not anticipated to adversely impact upon the amenity of the surrounding properties to any unacceptable degree.
- The introduced changes are considered relatively minor and in keeping with the approved built form and external appearance of the development with no detrimental additional impact to adjoining properties or the public domain.

CONDITIONS

The modification application was approved subject to the conditions in the Council assessment report with the following amendments:

- Condition 44.A. is amended to read as follows:

Prior to the commencement of any works on site, including excavation, the plans approved as part of the Construction Certificate must also be approved by Sydney Water. This allows Sydney Water to determine if sewer, water or stormwater mains or easements will be affected by any part of the development. The applicant will receive an approval receipt which must be included in the Construction Certificate documentation. Demolition works may commence prior to the issue of the

Construction Certificate if the applicant complies with the requirements of Sydney Water set out in its letter dated 24 July 2023 and if written consent is provided by Sydney Water.

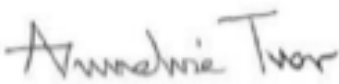




- Condition 2.A(iii) is amended to read as follows:
A continuous awning is to be provided over the footpath along Kingsway with a minimum width of 2m. A continuous awning is to be provided over the footpath along Croydon St with a minimum width of 2m (the awning is to terminate before the driveway down ramp). A continuous awning is to be provided over the footpath along Abel Place with a minimum width of 2m (the awning is to curve back into the building and terminate at the southern edge of the Ausgrid substation location being the northern edge of the building B lobby).

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition. The panel notes that issues of concern included:

- Hours of operation beyond 9pm not in keeping with existing trade within Cronulla Centre (7am to 9am adequate)
- Hours of operation including deliveries prior to 9am (Sundays / Public holidays) will present an adverse amenity impact to residences directly opposite loading dock / vehicular entry.
- Traffic / amenity impacts
- Air pollution and health impacts arising from vehicles
- Adequacy of traffic / loading dock management plan
- Safety issue at the intersection of The Kingsway / Croydon Street and traffic / truck routes through residential back streets and not on The Kingsway.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report. The panel notes that in addressing these issues appropriate conditions have been imposed.

PANEL MEMBERS	
 Annelise Tuor (Chair)	 Glennis James
 Penelope Holloway	 Carol Provan
 Stephen Nikolovski	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSSH-131 – Sutherland Shire Council – MA23/0006
2	PROPOSED DEVELOPMENT	S4.55(2) Modification to DA21/0562 – Changes to development description, add hours of operation for a supermarket, delete design change conditions 2i), 2ii), 2iii) and 2iv), amend condition 37, and 44 and internal layout changes.
3	STREET ADDRESS	3-23 Kingsway, Cronulla
4	APPLICANT/OWNER	Matthew Crews (applicant) John Palumbo, Antonietta Palumbo, GL Family Pty. Ltd., LP Family Pty. Ltd., Paul Milsted, Jenell Milsted, Helen Karageorge, Sam's Food Bar Pty. Ltd. & CCIG Pty. Ltd (owner).
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
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 (Resilience and Hazards) 2021. State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004. Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015). Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Sutherland Development Control Plan 2015 (SSDCP 2015) Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil 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: 10 July 2023 Written submissions during public exhibition: Six (6) Total number of unique submissions received by way of objections: Six (6)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Kick Off Briefing: 17 April 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James, Carol Provan and Stephen Nikolovski <u>Council assessment staff</u>: Beth Morris, Evan Phillips <u>Applicant representatives</u>: Matthew Crews, Lucy Langley, Paul Buljevic, Allen Sammut Site inspection: 8 May 2023

		<ul style="list-style-type: none"> ○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James, Carol Provan, Hassan Awada ○ <u>Council assessment staff</u>: Sue McMahon • Final briefing to discuss council's recommendation: 24 July 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James, Carol Provan, Stephen Nikolovski ○ <u>Council assessment staff</u>: Sue McMahon, Evan Phillips, Amanda Treharne, Ben Latta ○ <u>Applicant representatives</u>: Matthew Crews, Lucy Langley, Hector Valderrama, Allen Sammut and Julian Sammut
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report