

DATE OF DETERMINATION	15 July 2020
PANEL MEMBERS	Stuart McDonald (Chair), Heather Warton, Sue Francis
APOLOGIES	Helen Lochhead
DECLARATIONS OF INTEREST	Steve Simpson and Michael Forshaw declared a conflict of interest having participated in council decisions on the land swap of the site.

Public meeting held by Public Teleconference on 15 July 2020, opened at 10am and closed at 11.45am.

MATTER DETERMINED

PPSSSH-3 – Sutherland – DA19/0472 at 5 Prestons Avenue Engadine for a residential flat building (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 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 Shire Local Environmental Plan 2015 (LEP), that has demonstrated that:

- a) compliance with cl.4.6 (development standard) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl.4.6 (development standard) of the LEP and the objectives for development in the B3 Commercial Core zone; and
- c) the concurrence of the Secretary has been assumed.

Development application

The panel determined to approve the development application pursuant to section 4.16 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 following reasons:

1. The Panel has determined that, pursuant to Clause 4.6 of Sutherland Shire Local Environmental Plan 2015, the applicant's written request has adequately demonstrated that compliance with the floor space ratio development standard in Clause 4.4 of Sutherland Shire Local Environmental Plan 2015 is unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard.

The proposal is consistent with the objectives of the floor space ratio development standard in Clause 4.4 of under Sutherland Shire Local Environmental Plan 2015.

The proposal is consistent with the objectives of the B3 Commercial Core zone and in particular will assist to maximise public transport patronage and encourage walking and cycling and strengthen the viability of the existing commercial centres through increased resident population.

2. The proposal is consistent with State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development and the Apartment Design Guide.
3. The Panel has considered the matters raised in written submissions and has determined that these matters have either been adequately addressed in the design of the development or where not specifically addressed in the development, are not of such weight as to warrant refusal of the application.

The concern raised in relation to overshadowing was considered in detail and the Panel is satisfied that the ADG requirements are achieved.

Other items of concern raised by residents including potential impacts during construction have been dealt with in the conditions of consent.

4. In relation to the concern of the site isolation of 7 Prestons Avenue, the Panel is satisfied that the appropriate process of making an offer and that offer not being accepted were followed. Further, the Panel acknowledges that 7 Prestons Avenue is capable of development in isolation having regard to the controls that apply to the land.
5. Subject to the recommended conditions of development consent, the proposal will not have any unreasonable impacts on the amenity of neighbouring properties or the locality.
6. Taking into account reasons 1-5 above, approval of the application will be in the public interest.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report and as amended by Council Memo dated 15 July 2020, and noted below:

- Condition 14 A ii) amended to read as follows:
Parking bays provided for adaptable units must comply with AS2890.6.
- Condition 22 A ii) amended to read as follows:
Randomly replace three of the line of Eleaocarpus reticulatus trees on the south side of the eastern town (Building 'B') with Syncarpia glomulifera – turpentine. Prior to any planting along the southern side of Building 'B' (where it aligns the boundary shared with No. 7 Preston Ave), a root barrier to a depth of 600mm is to be installed to restrict the spread of roots.
- Condition 22 A. v) deleted and amended to read as follows:
Low mounding to a height of 250mm above the proposed footpath level is required. This will provide greater planting depth to the area where the palms are to be planted on the western side of the path which aligns the eastern side of Building A.




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:

- Overshadowing
- Loss of views
- Building setbacks

- Pedestrian and vehicle safety associated with construction
- Traffic and parking impacts
- Site isolation
- Construction management
- Privacy

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	
 Stuart McDonald (Chair)	 Heather Warton
 Sue Francis	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSSH-3 – Sutherland – DA19/0472
2	PROPOSED DEVELOPMENT	Demolition and excavation of existing Engadine Tavern carpark and construction of a residential flat building containing 64 units above a shared basement carpark comprising 80 residential spaces and 70 spaces to be used for the adjacent Engadine Tavern.
3	STREET ADDRESS	5 Prestons Avenue, Engadine
4	APPLICANT/OWNER	George Ajaka White and Partners Engadine Tavern Development Sub Trust Sutherland Shire Council
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65). Sutherland Shire Local Environmental Plan 2015 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Sutherland Shire Development Control Plan 2015 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</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: 1 July 2020 Written 4.6 variation to floor space ratio Applicant memo: 13 July 2020 Council memo: 15 July 2020 Written submissions during public exhibition: 12 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Members of the community – Edward Osiowy, Michael Goldrick, Frances van de Wetering, Joanne Willoughby Council assessment officer – Lauren Franks On behalf of the applicant – Tom Goode, George Ajaka, Matthew Cumming, Breellen Warry
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 30 October 2019 <ul style="list-style-type: none"> <u>Panel members</u>: Helen Lochhead (Chair), Bruce McDonald, Steve Simpson, Michael Forshaw <u>Council assessment staff</u>: Carine Elias Final briefing to discuss council's recommendation, 15 July 2020 at 9.30am. Attendees:

		<ul style="list-style-type: none">○ <u>Panel members</u>: Stuart McDonald (Chair), Sue Francis, Heather Warton○ <u>Council assessment staff</u>: Lauren Franks, Mark Adamson
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report