

<b>DATE OF DETERMINATION</b>	17 June 2021
<b>PANEL MEMBERS</b>	Helen Lochhead (Chair), Stuart McDonald, Susan Budd, Jack Boyd, Peter Scaysbrook
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

#### **MATTER DETERMINED**

PPSSSH-42 – SUTHERLAND SHIRE – DA20/0737 at 37 Gerrale Street, Cronulla NSW 2203 – Construction of a new mixed-use development consisting of 37 seniors living units and 4 commercial tenancies (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. 4.3 (Height) is considered 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 as the proposal is consistent with the objectives for both height and the B3 Commercial Core Zone of the LEP and is consistent with the envisaged character in terms of scale and built form.
- 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 uphold the Clause 4.6 variation to building height; and approve the application. The applicant's written submission in support of the Clause 4.6 variation demonstrates that compliance with the height development standard is unreasonable and unnecessary in the circumstances of the case. It also demonstrates sufficient environmental planning grounds to justify varying this development standard. The proposed breach of the building height development standard is acceptable for the reasons outlined in the council final addendum report. Notably, the amended plans address the overall design and development objectives, generally comply with the LEP, SEPP 65 and DCP requirements and more specifically, -reduce the extent of the rooftop pavilion to a level that is considered acceptable. The impacts of the pavilion, whilst non-compliant with the relevant height control, are within acceptable limits given the

setbacks to the side of the building, proportion over the area occupied, and the overall footprint and lack of visibility from the public way generally in context of the residential flat buildings in this part of Cronulla.

### CONDITIONS






The development application was approved subject to the conditions in the council final addendum assessment report.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered 13 written submissions made during public exhibition. The Panel notes that issues of concern included:

- inadequate car parking provision and traffic concerns,
- building height, built form, bulk and scale, overshadowing, overlooking, view loss and
- construction impacts.

The issues raised have been considered and are addressed in the 'Assessment' section of council's assessment report and through the conditions of consent.

PANEL MEMBERS	
 Helen Lochhead (Chair)	 Stuart McDonald
 Susan Budd	 Jack Boyd
 Peter Scaysbrook	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSSH-42 – SUTHERLAND SHIRE – DA20/0737
2	PROPOSED DEVELOPMENT	Construction of a new mixed use development consisting of 37 seniors living units and commercial tenancies
3	STREET ADDRESS	37 Gerrale Street, Cronulla NSW 2230
4	APPLICANT/OWNER	Sage by Moran Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Capital Investment Value > \$30M
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (State and Regional Development) 2011.</li> <li>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (Seniors SEPP).</li> <li>State Environmental Planning Policy (Coastal Management 2018).</li> <li>State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP).</li> <li>State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55).</li> <li>State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development (SEPP 65).</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004.Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015).</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Sutherland Shire Development Control Plan 2015 (SSDCP 2015).</li> <li>Section 7.11 Development Contribution Plan 2016 – Cronulla Centre Precinct.</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 9 March 2021</li> <li><b>Council addendum assessment report</b></li> <li>Written submissions during public exhibition: 13</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>James Flaherty</li> <li>On behalf of the applicant – Sally Taylor, Dough Southwell, Anthony Whealey, Chris Wilson</li> </ul> </li> <li>Total number of unique submissions received by way of objection: 13</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: Wednesday, 16 December 2020 <ul style="list-style-type: none"> <li><u>Panel members</u>: Helen Lochhead (Chair), Stuart McDonald, Heather Warton, Peter Scaysbrook</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Council assessment staff</u>: Tenille Whiteman, Carine Elias, Mark Adamson</li> <li>○ <u>DPIE Staff</u>: Michelle Burns, Leanne Harris</li> </ul> <ul style="list-style-type: none"> <li>● Final briefing to discuss council's recommendation: Thursday, 25 March 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Helen Lochhead (Chair), Stuart McDonald, Heather Warton, Peter Scaysbrook, Jack Boyd</li> <li>○ <u>Council assessment staff</u>: Tenille Whiteman, Carine Elias, Mark Adamson</li> <li>○ <u>DPIE Staff</u>: Michelle Burns, Leanne Harris</li> </ul> </li> <li>● Public Determination: Thursday, 25 March 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Helen Lochhead (Chair), Stuart McDonald, Heather Warton, Peter Scaysbrook, Jack Boyd</li> <li>○ <u>Council assessment staff</u>: Tenille Whiteman, Carine Elias, Mark Adamson</li> <li>○ <u>Applicant representatives</u>: Sally Taylor, Chris Wilson, Anthony Whealy, Doug Southwell, Ornella Bucceri</li> <li>○ <u>DPIE Staff</u>: Michelle Burns, Leanne Harris</li> </ul> </li> <li>● Final briefing prior to determination: Thursday, 17 June 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Helen Lochhead (Chair), Stuart McDonald, Susan Budd, Peter Scaysbrook, Jack Boyd</li> <li>○ <u>Council assessment staff</u>: Tenille Whiteman, Carine Elias, Mark Adamson</li> <li>○ <u>Applicant representatives</u>: Sally Taylor, Chris Wilson, Anthony Whealy, Doug Southwell, Ornella Bucceri</li> <li>○ <u>DPIE Staff</u>: Michelle Burns, Leanne Harris</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Refusal
10	<b>DRAFT CONDITIONS</b>	Attached to the council final addendum assessment report