

DETERMINATION AND STATEMENT OF REASONS

SYDNEY SOUTH PLANNING PANEL

DATE OF DETERMINATION	3 December 2021
DATE OF PANEL DECISION	29 November 2021
DATE OF PANEL MEETING	29 November 2021
PANEL MEMBERS	Helen Lochhead (Chair), Heather Warton, Chris Wilson
APOLOGIES	None
DECLARATIONS OF INTEREST	Councillor Jack Boyd and Councillor Peter Scaysbrook both declared a conflict of interest as they participated in Council deliberations related to the planning proposal for this site.

Public meeting held by teleconference on 29 November 2021, opened at 12:00 PM and closed at 2:30pm

MATTER DETERMINED

PPSSSH-87 – Sutherland Shire – DA-21/0326 - 138 Cronulla Street, Cronulla 2230

Demolition of existing structures and construction of a mixed-use development comprising ground and first floor commercial use (food and drink premises subject to separate development application) and office floorspace, 2 basement levels, 2 signs 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 Shire Local Environmental Plan 2015 (LEP), that has demonstrated that:

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

the panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.3 (building height) of the LEP and the objectives for development in the B3 Commercial Core zone; and
- 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 as the 25m development standard is only a minor variation of 1.2m (4.8%) to 26.2m which is considered acceptable.

The Panel approved the application for the reasons outlined in the council assessment report noting that the development application is consistent with the recently approved Planning Proposal that established the floor space, height, built form and parking requirements for the development.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report and the addendum report with the following amendments.

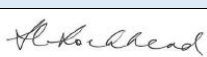


- Condition 51A - Delete Point 2 and amend Point 3 to stipulate - Levels 2-6 are to be used for *office premises* only as defined in the SSLEP.
- Delete Condition 29 - repetition of condition
- Condition 23B to include-
 - o i) The hours of operation of the loading dock for deliveries are between 7am and 10am Monday to Friday for tenancies on the Ground and First floor. Deliveries/collections are not permitted outside of these hours.
 - o ii) All waste collection is to be between 7am and 10am Monday to Friday for all tenancies.
- Condition 24 to include- No rooftop planting to overhang the northern boundary
- New Condition 20A to include a requirement that the stratum subdivision is to ensure that all uses in the building have access to all common areas including the Surf Lane loading area.
- New condition- no general pedestrian access to the development from Beach Park Ave. All patrons to enter from Cronulla St.
- New condition- all outdoor dining to be contained within the terrace area on Beach Park Ave
- New condition- the proposed tenancies are to provide dedicated toilet facilities
- New condition- the applicant to prepare a Green Travel Plan to Council's satisfaction to encourage the use of more sustainable modes of transport including targets and actions to promote walking, cycling and the use of public transport.

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:

- o the food and drink premises element of the proposal
- o traffic and car parking
- o servicing arrangements
- o impacts on Monro Park including overshadowing, character and fig trees
- o heritage impacts
- o non-compliant building height
- o loss of views
- o design of public toilets
- o impacts to nearby residential properties including noise impacts, privacy and overlooking

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. The panel did however determine that in considering these issues additional conditions of consent were warranted. These include dilapidation reporting, tree protection and landscaping requirements, conditions to address concerns regarding the extent of commercial uses, loading and unloading requirements, pedestrian movement and finally the need to prepare a green travel plan to encourage sustainable transport to and from the site. These conditions have been imposed to address issues raised by the community.

PANEL MEMBERS	
 Helen Lochhead (Chair)	 Chris Wilson
 Heather Warton	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSSH-87 – SUTHERLAND SHIRE – DA-21/0326
2	PROPOSED DEVELOPMENT	Demolition of existing structures and construction of a mixed-use development comprising food and drink premises and commercial / office floorspace, 2 basement levels, 2 signs and stratum subdivision.
3	STREET ADDRESS	138 Cronulla Street, Cronulla 2230
4	APPLICANT/OWNER	John Sammut – Munro Operations Trust / Kareena Holdings Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<p>Environmental planning instruments:</p> <ul style="list-style-type: none"> ○ Sutherland Shire Local Environmental Plan 2015 (SSLEP 2015). ○ State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55). ○ State Environmental Planning Policy (State and Regional Development) 2011. ○ State Environmental Planning Policy (Infrastructure) 2007 (Infrastructure SEPP). ○ State Environmental Planning Policy No. 19 - Bushland in Urban Areas. ○ Apartment Design Guide (ADG). <p>Draft environmental planning instruments:</p> <ul style="list-style-type: none"> ○ Draft State Environmental Planning Policy (Remediation of Land) <p>Development control plans:</p> <ul style="list-style-type: none"> ○ Sutherland Shire Development Control Plan 2015 (SSDCP 2015).
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 15 November 2021 • 4.6 variation to vary clause 4.3 Building height • Addendum report received: 26 November 2021 • Written submissions during public exhibition: 80 • Verbal submissions at the public meeting: Brett Daintry, James MacLachlan, Marilyn Urch on behalf of the North Cronulla Precinct Committee, Leanne Farmer, Sarah Wood, Christos Mavropoulos <ul style="list-style-type: none"> ○ Council assessment officer - Carine Elias, Mark Adamson, Meredith Bagnall ○ On behalf of the applicant – Tina Christy, Lucy Langley, Anders Idestrom, Allen Sammut, Julian Sammut, Dora Choi, Juliet Grant, Matt Crews, Cameron Jones, Charlie Lee, Noel Manusco • Total number of unique submissions received by way of objection: 79
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 16 September 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Helen Lochhead (Chair), Stuart McDonald, Heather Warton ○ <u>Council assessment staff</u>: Carine Elias, Mark Adamson, Meredith Bagnall

		<ul style="list-style-type: none"> ○ <u>Applicant</u>: Tina Christy, Lucy Langley, Anders Idestrom, Allen Sammut, Julian Sammut, Dora Choi, Juliet Grant ○ <u>DPIE</u>: Leanne Harris, Carolyn Hunt, Michelle Burns ● Final briefing to discuss council's recommendation: 29 November 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Helen Lochhead (Chair), Chris Wilson, Heather Warton ○ <u>Council assessment staff</u>: Carine Elias, Mark Adamson, Meredith Bagnall ○ <u>DPIE</u>: Leanne Harris, Sharon Edwards, Carolyn Hunt
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report