

Report to the Secretary's delegate on an application for a site compatibility certificate SCC2020SUTHE-3 under State Environmental Planning Policy (Affordable Rental Housing) 2009 - 1 Panorama Avenue, Woollooware

SITE:

The site is 1 Panorama Avenue, Woollooware (**Figure 1**), legally known as Lot 11 DP 19678. It is a corner site which comprises 674.9 sqm and has a frontage of 18 metres to Swan Street and 31 metres to Panorama Avenue. The site has a diagonal cross fall from the corner of Panorama Avenue and Swan Street to the north west of 860mm. The site falls 870mm along Panorama Avenue to the east and 700mm along Swan Street towards the Station.

The site is within a developed residential urban area in a landscaped setting. It is bound by the T4 Cronulla railway line and the Woollooware railway station to the north, and a single detached residential dwelling to the west. The site is occupied by a single storey detached residential dwelling with ancillary garage and swimming pool. The site is substantially cleared of significant vegetation with a landscaped setback associated with the front garden.



Figure 1: Aerial photo of the site and surrounding area. Distance from Woollooware railway station approx. 8 metres

The site is zoned R3 Medium Density Residential (**Figure 2**) under Sutherland Local Environmental Plan (LEP) 2015. The zone permits development in the form of attached dwellings, boarding houses, dual occupancies, dwelling houses, group

homes, multi-dwelling housing, neighbourhood shops, semi-detached dwellings, seniors housing and shop-top housing, but prohibits residential flat buildings.

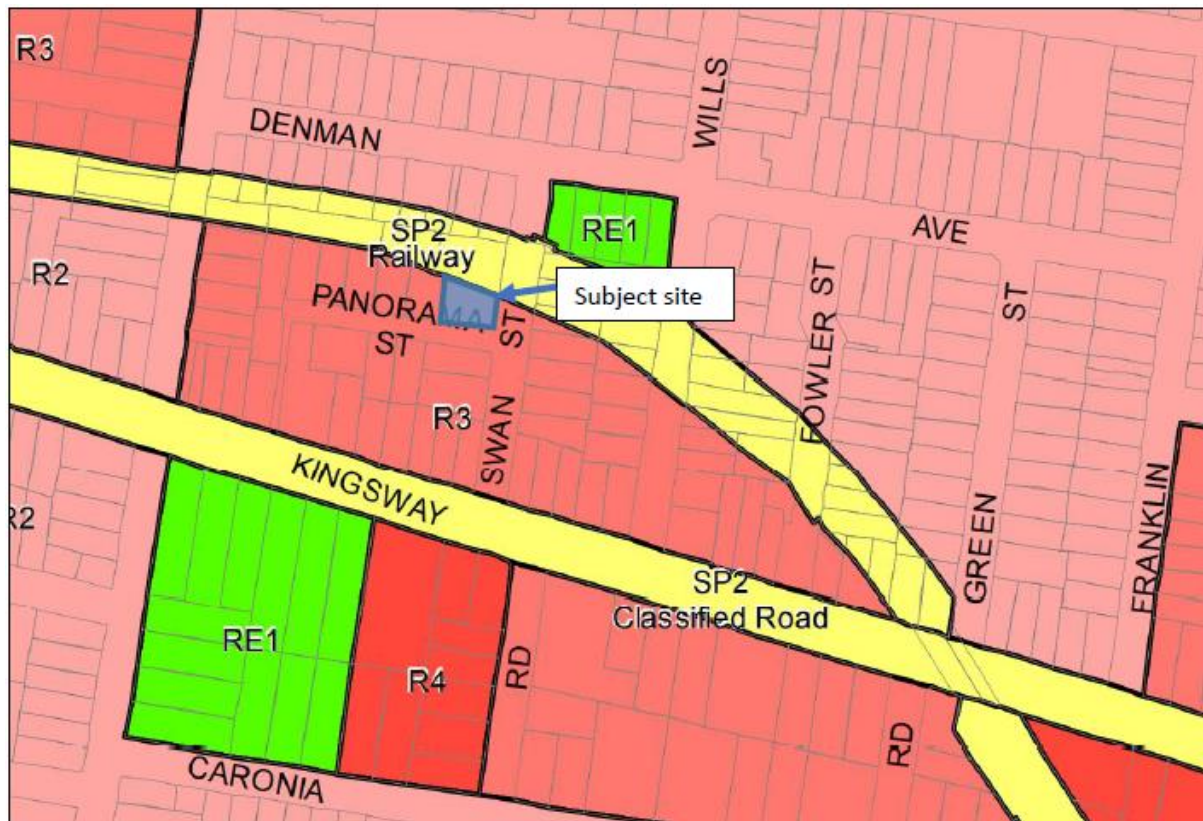


Figure 2: Zoning map under Sutherland LEP 2015

The site has a maximum building height of 9m (**Figure 3**) under the LEP, and a maximum floor space ratio (FSR) of 0.7:1 (**Figure 4**).

APPLICANT:

Pacific Planning Pty Ltd is the applicant on behalf of Grant and Solveig Durbin. The proposed community housing provider is Pacific Community Housing.

LGA:

Sutherland.

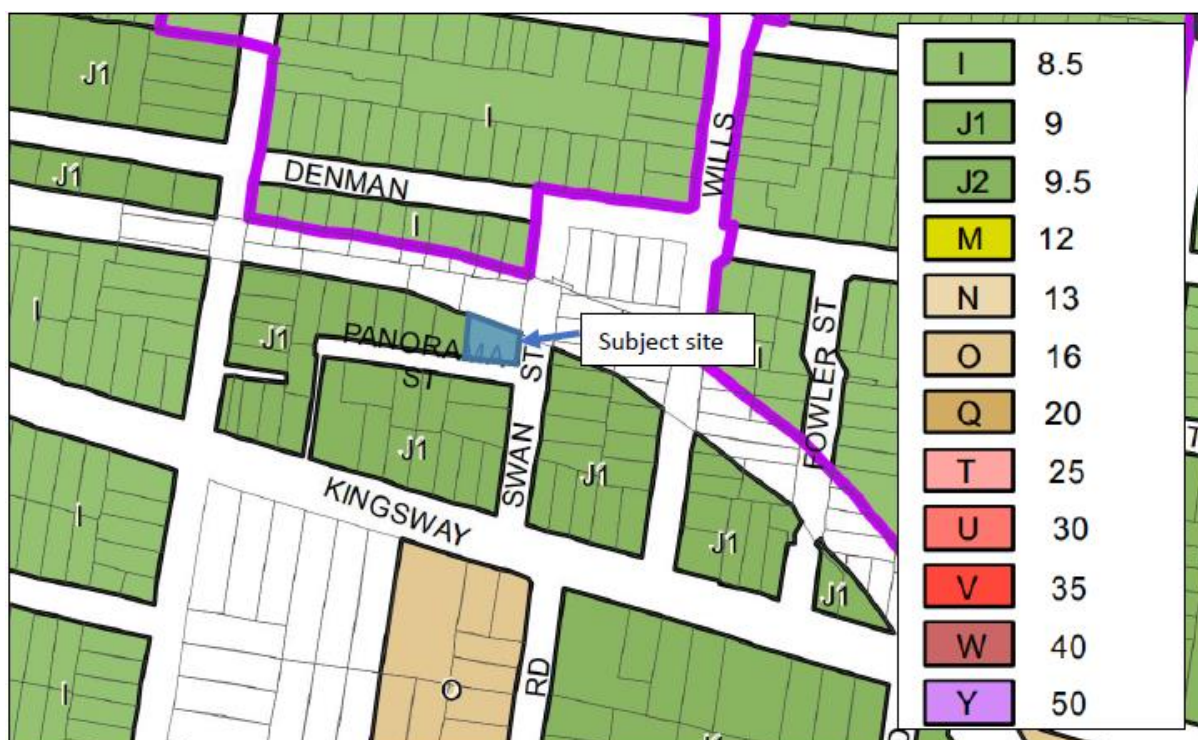


Figure 3: Maximum height of buildings map in metres, under Sutherland LEP 2015



Figure 4: Maximum floor space ratio map, under Sutherland LEP 2015

PROPOSAL:

The proposal is for a three storey (9 metre) residential flat building comprising 16 studio apartments (of which 50% or eight dwellings will be designated affordable), and ground floor bicycle parking and landscaping. The proposal incorporates a

ground floor cafe/retail area (25 sqm) facing Swan Street and immediately interfacing with the entry to the Woollooware train station.

Parking is not proposed on the site. There are eight lockable bike stores proposed located on the ground level, which are accessed by a side gate to the rear of the site. An internal access pathway connects the bicycle parking with the entry lobby and lift.

The eight affordable housing dwellings are proposed to be managed by a social housing provider, Pacific Community Housing, as affordable housing for a minimum of 10 years.

The proposal is supported by an architectural design statement, survey plan, concept design report and shadow diagrams, State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65) compliance statement and transport plan.

PERMISSIBILITY STATEMENT

Division 5 of the Affordable Rental Housing (ARH) SEPP 2009 sets out the requirements for permitting residential flat buildings with consent by social housing providers, public authorities and joint ventures.

Clause 34 Land to which Division applies: The Department is satisfied that Division 5 of the ARH SEPP 2009 applies to the land and that the proposal complies with the requirements of clause 34(a) of the ARH SEPP. Residential flat buildings are prohibited on the subject site as the land is zoned R3 Medium Density Residential and it is in the Sydney region and within 800m (approximately 8m) of the public entrance to Woollooware rail station (**Figures 5 & 6**).



Figure 5: Proximity of site to transport (rail & bus).

Clause 35 development to which Division applies: Development on land to which this division applies (clause 34) for the purposes of a residential flat building must be either:

- by or on behalf of a public authority or social housing provider, or
- by a person who is undertaking the development with the Land and Housing Corporation.

An SCC application does not need to be made by or on behalf of people listed above but does require owner's consent (clause 37(1) of the Affordable Rental Housing SEPP). However, a development application made under this division is required to be by or on behalf of the people listed above (clause 35 of the SEPP).

The applicant has provided satisfactory evidence of landowners' consent for the purpose of this SCC application.

A letter is included with the application from Pacific Community Housing, stating that it intends to provide community housing as a Community Housing Provider for the project. Council questioned the validity of Pacific Community Housing, and this is discussed further in this report.

COUNCIL COMMENTS

In accordance with clause 37(4) a copy of the SCC application was provided to Sutherland Council for its consideration and comment. A summary of the issues raised in Council's submission to the Department is provided below:

Issue	Council response
draft Local Strategic Planning Statement (LSPS)	<ul style="list-style-type: none"> The precinct has not been identified for higher density housing in Council's draft Local Strategic Planning Statement (LSPS) and Council is yet to undertake strategic analysis of the locality in preparation for its Housing Strategy. Woollooware is not identified for further investigation or growth at this time.
Permissibility of cafe	<ul style="list-style-type: none"> The proposed cafe is presently not permissible in the R3 Medium Density zone. It is unclear whether the Site Compatibility Certificate can allow this use. There are no other uses permitted in the R3 zone that would be suitable in this space should a cafe be unsuccessful, so there is a concern that it could create an anomalous, vacant space. The proposed cafe use is not within the remit of the SEPP, may be problematic, and should be removed from the proposal
Size of site	<ul style="list-style-type: none"> The site is small, being only 676 sqm and the lot is shallow, and Panorama Ave is narrow being only 12m wide, therefore there is less space to ameliorate adverse impacts. The proposal seeks to maximise the number of dwellings on site and the resultant form does not address local character, nor the requirements of SEPP 65.

Floor Space Ratio	<ul style="list-style-type: none"> The proposal has a greater bulk (1.17:1) than the FSR standard (0.7:1). As a result of the scale and density of the proposal, it will dominate the streetscape and be incompatible with the scale and character of surrounding development. It is considered that the proposal should be limited to an FSR of about 0.7:1.
Height and Setbacks	<ul style="list-style-type: none"> The proposal is of significantly greater scale than the buildings that comprise its local context and has significantly reduced setbacks. The 3m setback to Panorama Avenue and nil setback to Swan Street are inconsistent with the general street character and landscaped setting. The setback to the single dwelling to the west should be increased. Should the Department support the proposal, it is suggested that greater consideration of setbacks, bulk and scale of any proposed building should be given in the final design of the proposal. A more compatible proposal is likely to have an FSR closer to the current maximum of 0.7:1.
SEPP 65 and ADG compliance	<ul style="list-style-type: none"> The concept design has not demonstrated compliance with SEPP 65 Apartment Design Guidelines, highlighting that the density sought is disproportionate for the site. The units are 8m deep, it is unclear how the bedroom will have natural light, ventilation and privacy.
Car parking	<ul style="list-style-type: none"> Car parking should be provided for at least 8 dwellings. Competition for on street parking is of increasing community concern and providing 16 units without parking will compound the issue and be opposed by the community.
Services	<ul style="list-style-type: none"> Services are likely to be sufficient for the proposed development.
Environmental Risks	<ul style="list-style-type: none"> The redevelopment of the site for a residential flat building is unlikely to have any unacceptable environmental risks to the land.

Provision of affordable housing	<ul style="list-style-type: none"> An affordable housing building with reduced scale and density would be considered compatible in this local context and would provide a form of housing that is undersupplied in The Shire. The location adjacent to the railway station is reasonable.
Community Housing Provider	<ul style="list-style-type: none"> Pacific Community Housing Pty Ltd is not currently listed on the National Provider Register and the application notes that a Community Housing Provider will be required to manage the affordable housing component. This aspect requires clarification.

COMPATIBILITY WITH THE SURROUNDING LAND USES

The Secretary must not issue a certificate unless the Secretary is of the opinion that the development concerned is compatible with the surrounding land uses having regard to the following matters:

1. The existing uses and approved uses of land in the vicinity of the development (clause 37(6)(b)(i))

The site is in the Woollooware residential area on the south side of the rail line, the immediately adjoining property at 3 Panorama Avenue contains a single dwelling house. The existing uses and neighbouring properties are single and two storey dwelling houses, villas and townhouses. There are also several residential flat buildings including four, and two storey residential flat buildings adjacent to the site on Swan Street (**Figure 5 & Figure 6**). The Department understands that numbers 1 and 2 (**Figure 5 & Figure 6**) are not currently being used as flat buildings, however the built form remains as per two storey flat buildings.

Approximately 120m to the south of the site, near the intersection of Swan Street with the Kingsway there is a R4 High Density Residential zoned area that contains several residential flat buildings including three and four storey buildings.



Figure 6: Site context showing nearby residential flat buildings

The site is appropriately situated for residential flat development with two street frontages, and is located next to major infrastructure in the form of the Woollooware rail station.

The height limit of the area is 9 metres.



Figure 7: Subject site in context of Woollooware rail station.

The site in relation to the rail station building is shown in **Figure 7**. Existing residential flat development in proximity to the site is shown in **Figures 8 and 9**.



Figure 8: Opposite residential flat development: 2 – 4 Swan Street



Figure 9: View along Swan Street looking south towards The Kingsway: Residential flat development

All directly adjoining land is either R3 residential or SP2 railway zoned land. The proposed residential use is consistent with surrounding development so there is minimal potential for conflict with established development.

It is noted that Council advises that “...a partly affordable residential flat building use could sit comfortably with the surrounding land uses, given the current mix of residential development.”

2. The impact that the development (including its bulk and scale) is likely to have on the existing uses, approved uses and uses that, in the opinion of the Secretary, are likely to be the preferred uses of that land (clause 37(6)(b)(ii))

The proposal comprises a single building with a 3m setback to Panorama Avenue, nil setback to Swan Street, 4.5m setback to 3 Panorama Avenue to the west and 3m to the north and the rail line at the rear (**Figure 10**).

Council’s concerns about the adequacy of building setbacks are noted and it is agreed that the proposed setbacks are inconsistent with the general street character and landscaped setting. The other dwellings along Swan Street and Panorama Avenue have a greater setback.



Figure 10: Site plan showing proposed setbacks.

The concept submitted with the application generally meets the 9m height limit (**Figure 3 & Figure 11**) with some obstruction by a small section of the roof towards the north of the site along the railway station at the lowest part of the site. The lift overrun is also above the 9m height however it has been located so that it is not viewed from Panorama Avenue. The built form along Panorama Avenue is below the maximum building height.

The adjacent rail station building lift at approximately three storeys is equivalent to the proposed 3 residential storeys in height. Several nearby residential dwellings are currently one to two storeys, however it is considered that an appropriately designed three storey development with a flat roof can be accommodated within this context.

The built form of the proposal facing both Panorama Avenue and Swan Street is shown in the elevations in **Figure 12 and Figure 13**. The maximum floor space ratio (FSR) control that applies to the subject site is 0.7:1 (**Figure 4**) under the Sutherland LEP 2015. The proposal exceeds this standard. The proponent states the FSR of the proposal is 1.068:1, Council has calculated the FSR to be 1.17:1.

The proposal provides for 726 sqm of GFA, if the 0.7:1 FSR standard was applied the site would provide 471.8 sqm of GFA. The proposal provides for an additional 254.2 sqm GFA above the standard, which is not insignificant given that the units are around 35 sqm in size.

Given the relatively small lot size (674.9 sqm) and narrow width of Panorama Avenue (12m), further refinement and consideration of the setbacks and density may be needed, but this should not prevent the issuing of a SCC. The Council's concerns regarding bulk and scale should not preclude consideration of a residential flat building on the site, rather these aspects of the development may be resolved by the consent authority during development assessment.

A development application relying on a SCC granted under division 5 of the Affordable Rental Housing SEPP will still need to comply with the relevant planning standards, such as the FSR and maximum building height, applying to the site. Where variations to this may be sought, a clause 4.6 variation(s) under the Sutherland LEP 2015 would be required to support a development application.



Figure 11: Height of building 'FOG' diagram showing 9m height limit plane is shown in red in relation to proposal.

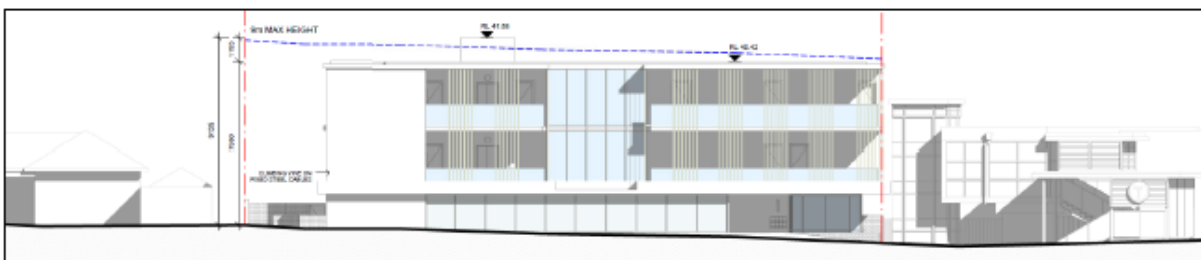


Figure 12: Indicative south elevation fronting Panorama Avenue

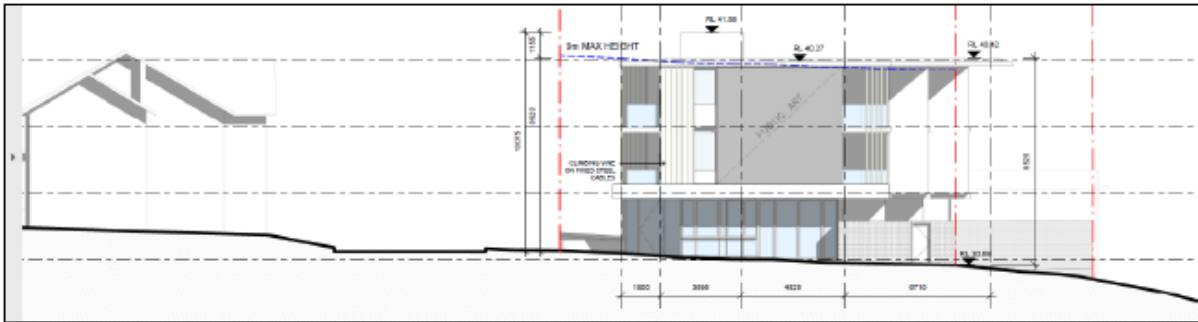


Figure 13: Indicative east elevation fronting Swan Street.

3. The services and infrastructure that are or will be available to meet the demands arising from the development (clause 37(6)(b)(iii))

The site is part of a long established residential urban area, which is well served by all urban services and infrastructure. The site should be able to support higher density residential land uses in accordance with the ARH SEPP. Council has advised that services are likely to be sufficient for the proposed development. The relevant utility providers should be consulted as part of future development applications for the site to support the provision of gas, water, sewer and electricity.

Retail shops, education and open space facilities are within walking distance of the site. A small cluster of convenience shops within the Woollooware neighbourhood centre, and the Woollooware public school are located approximately 200m to the north. Hagger Park is within 100m to the north and Woollooware Oval is approximately 200m to the south.

The train provides public transport connection to the Sydney CBD and the broader rail network including the nearby centres of Cronulla, Caringbah, Miranda and Sutherland. The site is approximately 125m from a major bus route that also provides connections to these centres. The site therefore achieves accessibility goals for social housing of connection to community services, health facilities, shopping, community facilities and jobs and employment.

EFFECT ON THE ENVIRONMENT

The Secretary must not issue a certificate unless the Secretary is of the opinion that the development concerned is not likely to have an adverse effect on the environment and does not cause any unacceptable risks to the land (clause 37(6)(c)).

Contamination – SEPP 55 Remediation of Land: The site is currently used for residential purposes, and there is no evidence to suggest that the site was ever historically utilised for any other use except residential. The site is not known to have been used for any of the potentially contaminating activities that are listed in Table 1 of the Managing Land Contamination (SEPP 55) Guidelines.

The proposal is for continued intensification of residential use therefore the possibility of contamination is very low, and it is considered that issuing a site compatibility certificate will not have any adverse environmental impact or cause any unacceptable environmental risks to the land. This does not preclude the further consideration of contamination at the development application stage if considered necessary by the consent authority.

Hazards: The Sutherland LEP maps have been checked and the site is not affected by acid sulfate soils, flooding or bushfire hazard.

Biodiversity: The site is not identified on any Sutherland LEP 2015 mapping as having any ecological, biodiversity or natural environment significance.

As the site is located within an established urban area, impacts on ecological, biodiversity or natural environment will be minor.

Heritage: The site is not identified as a heritage item, or located in a heritage conservation area.

The nearest local heritage item, “Wyndam Flats” is at 2 Swan Street, opposite the site. This two storey freestanding residential flat building dates from the Interwar period, likely constructed between 1930 and 1942. The site is separated far enough from the item to enable design outcomes that respect the significance of this item. This can be further considered as part of any development assessment.

Transport: The transport plan that supports the proposal considers that since the site is well served by heavy rail and bus transport then parking is not required on the site. The proposal also cites clause 36(4) of the ARH SEPP which states that car parking is not required in relation to residential flat buildings provided for under the SEPP.

The proposal provides for 8 lockable bike stores and the site is located along the planned Sutherland to Cronulla Active Transport Link, a dedicated pedestrian and cycle path.

Council has raised that on street parking is a community concern, and that parking should be provided for at least 8 dwellings, given that only half of the dwellings will be affordable.

The Department is satisfied that the location of the site close to dedicated public transport connections will lead to a reduced reliance on car use and requirements for parking. As the SEPP does not require car parking to be provided, the Department considers Council should further consider this issue at the development application stage.

Overshadowing: A shadow analysis has been prepared to support the proposal to demonstrate the height impact of the 9 metre building. This information (**Figure 14 & Figure 15**) demonstrates that the development will likely have minimal impact on adjoining buildings between 9am and 3pm on the winter solstice. Further assessment and verification of shadow analysis will be required as part of a future development application.

Acoustic impacts: The site will be subject to acoustic impacts from trains as it is adjacent to the Cronulla rail line. With the use of internal acoustic materials, and treatment and good design the Department is satisfied that suitable internal noise levels can be achieved. The SCC application includes information to advise that this is achievable.

The details for acoustic treatments and building design can be further considered and resolved as part of the development application process through consideration of the relevant standards.

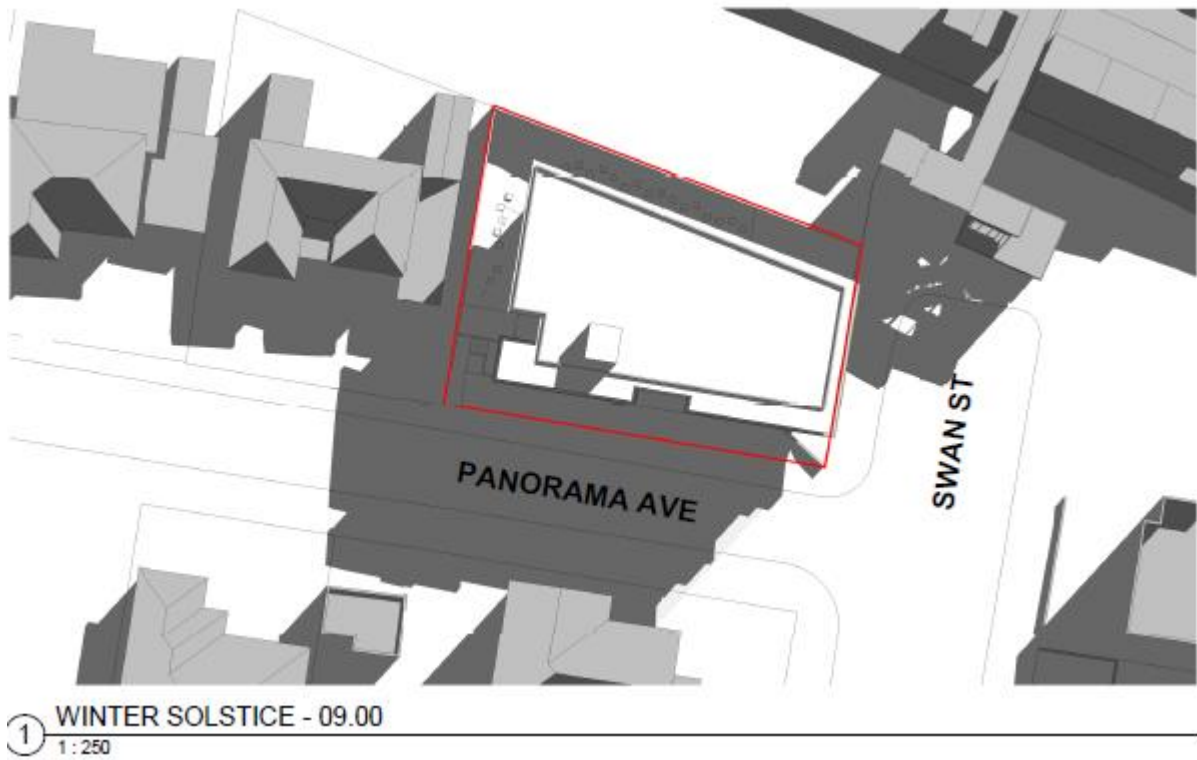


Figure 14: Shadow diagram winter solstice 9am.

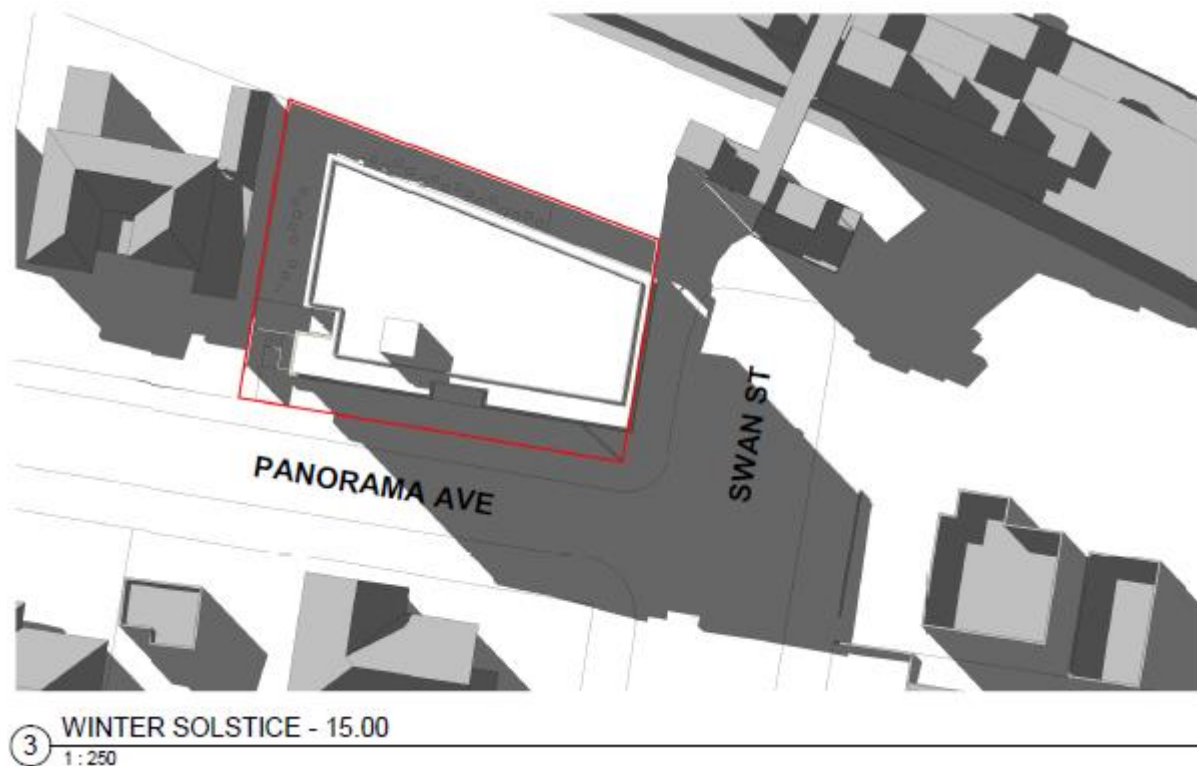


Figure 15: Shadow diagram winter solstice 3pm.

State Environmental Planning Policy No 65-Design Quality of Residential Apartment Development (SEPP 65)

Clause 39 of the ARH SEPP 2009 confirms that the provisions of *State Environmental Planning Policy No 65-Design Quality of Residential Apartment Development* and the accompanying *Apartment Design Guide* apply to development under Division 5. As such, should a SCC be issued, a future development application for a residential flat building will be required to meet the design principles of SEPP 65 and the design criteria of the *Apartment Design Guide*, such as building setbacks, privacy, noise and landscaping.

The proposal is supported by a SEPP 65 compliance statement that addresses the SEPP 65 Design Principles. Council's submission claims that the concept design has not demonstrated compliance with the SEPP 65 Apartment Design Guidelines. Council considers that the density is disproportionate for the site, and that it is unclear how the bedrooms will have natural light, ventilation and privacy.

The concept design does not provide enough detail to resolve these issues at this time, however it is expected that compliance with SEPP 65 can be further investigated and assessed as part of a development application.

Cafe/retail use

The concept design of the proposal includes a cafe/retail space of 25 sqm facing Swan Street. Council has raised concerns that the proposed cafe (food and drink premises) is not permissible in the R3 Medium Density zone, and that no other permitted uses would be suitable in this space.

The ARH SEPP enables the Department to make residential flat buildings permissible, although it is not possible through the SEPP to make another prohibited land use permissible. Nor would the cafe necessarily be considered an ancillary component of residential flat development.

The use of this space will require further consideration as part of the development assessment, due to food and drink premises being prohibited in the R3 Medium Density zone. The Department notes other uses such as neighbourhood shops are permissible.

Pacific Community Housing

Pacific Community Housing Pty Ltd has been identified as the social housing provider that intends to manage the affordable housing component of the development.

Sutherland Council has questioned the validity of Pacific Community Housing and has sought clarification from the Department given that it is not currently listed on the National Provider Register.

The Department wrote to the proponent seeking advice that Pacific Community Housing was either nationally registered or locally registered as a community housing provider. The proponent has advised (**Attachment C**) that Pacific Community Housing has been working closely with Family and Community Services NSW (FACS) on the process of registration. A schedule has been endorsed by FACS to commence registration on 3 August 2020 and complete on 21 December 2020.

Resolution of this issue will be required prior to the submission of any future development application. This is not a requirement to be resolved as part of a SCC assessment. The Department is satisfied that the proponent has provided sufficient information to demonstrate appropriate steps are being taken to register Pacific Community Housing for a future development application.

SCC RECOMMENDATION

The Secretary may determine the application by issuing a certificate or refusing to do so. It is considered that an SCC should be issued, subject to requirements, because:

- the proposed use will assist in providing additional housing choice and opportunities for affordable housing in the Sutherland LGA;
- the proposed residential flat building is consistent with the land uses permitted, or constructed on adjoining land in the vicinity of the site;
- the proposal will provide affordable housing within walking distance of well-connected public transport, helping to provide access to services and jobs;
- the site is suitable for more intensive use for the purposes of affordable housing, having regard to the criteria set out in clause 37(6) of the Affordable Rental Housing SEPP and more detailed design considerations being undertaken as part of any development application;
- matters regarding traffic and parking, heritage, acoustic treatment, building height, bulk, scale, setbacks, compliance with SEPP 65 and the permissibility of the proposed ground-floor cafe/retail space can be further assessed as part of a development application; and
- the development will not have an adverse impact on the environment or cause unacceptable risks to the natural environment.

SCC REQUIREMENTS

A certificate may certify that the development to which it relates is compatible with the surrounding land uses only if it satisfies certain requirements specified in the certificate (clause 37(7) of the Affordable Rental Housing SEPP).

It is recommended that conditional requirements be included in schedule 2 of the SCC, being:

1. The final scheme including the number of units in the proposed development will be subject to the consent authority undertaking a detailed assessment of the proposal as part of the development application process. This will include resolution of a number of issues including but not limited to:
 - density;
 - bulk and scale;
 - building setbacks;
 - building height;
 - compliance with *State Environmental Planning Policy No 65-Design Quality of Residential Apartment Development*;
 - number of dwellings, based on the above matters;
 - building design;

- landscaping;
- traffic and parking;
- heritage;
- acoustic treatment;
- the amenity of surrounding development; and
- permissibility of the proposed ground-floor non-residential space.

ATTACHMENTS

Attachment A – Council comments

Attachment B – SCC application

Attachment C – Proponent advice re. community housing provider

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