

DATE OF DETERMINATION	12 June 2024
DATE OF PANEL DECISION	3 June 2024
PANEL MEMBERS	Sue Francis (Acting Chair), Glennis James, Greg Woodhams & Annelise Tuor
APOLOGIES	Graham Brown
DECLARATIONS OF INTEREST	None

Public meeting held by Public Teleconference on 3 June 2024, opened at 2:00pm and closed at 3:17pm. Papers circulated electronically on 29 May 2024.

PLANNING PROPOSAL

PP-2021-7404 – Northern Beaches LGA – 159-167 Darley Street West, Mona Vale (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the material listed at item 4, and the material presented at the briefing listed at item 5 in Schedule 1.

As the Planning Proposal Authority, the Panel determined to recommend to the Minister that the proposed instrument, as described in Schedule 1, should be made.

The Panel’s decision was unanimous.

REASONS FOR THE DECISION

The Panel considered the Department of Planning, Housing and Infrastructure’s Post-Exhibition Report, 29 May 2024 and met with the Department, Solve Property Group (Proponent), Magnolia Views PTY Ltd (Landowner), Northern Beaches Council and members of the community in a public meeting.

The Panel generally concurred with the Post Exhibition Report and conclusions that the Planning Proposal, subject to revisions, demonstrated strategic and site-specific merit, the conditions of the Gateway had been met, agency and community consultation had occurred in accordance with the Gateway Determination and submissions raised had been adequately addressed.

While the Panel agreed the Planning Proposal, subject to the Post Exhibition Report’s recommendations, warranted support, it shared community and Council concerns with the proposed density of residential development on the site in the absence of a density control. Consequently, the Panel requests that the Planning Proposal and supporting documents be revised and updated to:

- Remove the provision to delete the application of clause 4.5A of Pittwater LEP 2014 so that the maximum dwelling density requirements do not apply to the site and replace with a provision to amend Clause 4.5A of the Pittwater LEP 2014 to introduce a maximum of 1 dwelling/150m² of site area, which will deliver the proposed maximum density of 41 dwellings.

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The Panel did not support the Proponent's view that the provisions within the Pittwater Development Control Plan 2014, relating to biodiversity conservation and flooding were specific enough to deliver a development outcome envisaged by the Panel. Consequently, the Panel agreed with the Post Exhibition Report that the Planning Proposal and supporting documents be revised and updated to include a requirement in the LEP for the preparation of a Site-Specific Development Control Plan (DCP) prior to the development consent being issued. The DCP will need to be prepared in consultation with Council and include the following Post Exhibition Report's recommendations as well as other requirements identified by the Panel. The DCP is to:

- include objectives and controls to protect, rehabilitate and conserve the ecological values on the site, including the endangered ecological community, Pittwater and Wagstaffe Spotted Gum Forest including:
 - to require an assessment of biodiversity values to be undertaken through application of Stages 1 and 2 of the Biodiversity Assessment Method;
 - to require preparation and implementation of a Vegetation Management Plan which restricts development and identifies appropriate setbacks on the southern portion of the site where the vulnerable, endangered or critically endangered species are predominantly located;
- include objectives and controls specific to the site that will establish site coverage and landscaping requirement to manage density and retention of vegetation. Controls should also ensure overshadowing, visual, privacy, bulk and amenity impacts on the adjoining low density residential properties are acceptable;
- include objectives and controls to manage flood patterns within and downstream of the site to ensure that post development flows are improved or not worsened by the development, including the recommendations in the Lyall & Associates peer review letter to Solve Property, 16 February 2024; and
- When submitting any DA, the application should accompany an updated traffic report incorporating recent data and analysis.

Finally, the Panel also agreed with the Post-Exhibition Report's recommendations that the Planning Proposal and supporting documents be revised and updated to address the following:

- Include an LEP clause to require an affordable housing rate of 5% to apply to the total gross floor area;
- include the site on the Biodiversity Map so that Clause 7.6 Biodiversity of the Pittwater LEP 2014 applies;
- remove the site from the Minimum Lot Size Map consistent with all land zoned R3 Medium Density Residential in the Pittwater LEP 2014 not having a minimum lot size control; and
- flood hazard vulnerability classification maps for existing and post development scenarios based on the current concept plans, are to be prepared and provided to the Department.

CONSIDERATION OF COMMUNITY VIEWS


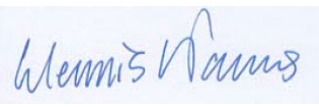
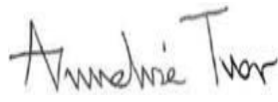

In coming to its decision, the Panel considered written submissions during the public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included biodiversity values & ongoing management of native vegetation; flooding & stormwater management; affordable housing & viability testing; proposed density and built form; traffic, car parking & public transport; and privacy & amenity.

The Panel acknowledges the work of the Department to resolve issues raised during the public exhibition, including the engagement of an independent peer review of the Northern Beaches Council and the Proponent's Affordable Housing Feasibility Assessments. The Panel also notes that the Proponent engaged an independent peer review of the flooding and drainage related documents exhibited with the Planning Proposal as well as the post-exhibition Stormwater Management Strategy.

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The Panel considers that the concerns raised by the community have been adequately considered in the Department's Post-Exhibition Report and this Record of Decision or would be more appropriately considered at the development application stage.

PANEL MEMBERS	
 Sue Francis (Chair)	 Glennis James
 Annelise Tuor	 Greg Woodhams

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SCHEDULE 1		
1	PANEL REF – LGA – PLANNING PROPOSAL NO. – ADDRESS	PP-2021-7404 – Northern Beaches LGA – 159-167 Darley Street West, Mona Vale
2	LEP TO BE AMENDED	Pittwater Local Environmental Plan (LEP) 2014
3	PROPOSED INSTRUMENT	<p>The Planning Proposal seeks to amend the Pittwater LEP 2014 to enable the redevelopment of the site to deliver medium density housing (approximately 41 dwellings), including a portion as affordable housing. In summary, it seeks to:</p> <ul style="list-style-type: none"> • rezone the site from R2 Low Density Residential to R3 Medium Density Residential Zone; • amend clause 4.5A of Pittwater LEP 2014 so that the maximum dwelling density requirements do not apply to the site; and • introduce an Affordable Housing clause in the Pittwater LEP 2014, identify a 5% contribution rate for the site and include the site on an Affordable Housing Contributions Scheme Map.
4	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Department of Planning, Housing and Infrastructure Post Exhibition Report, 29 May 2024 • Written submissions during public exhibition: 43 unique submissions • Total number of unique submissions received by way of objection: 31 of the 33 community submissions • Verbal submissions at the Panel’s public meeting 2:00pm – 3:17pm, 3 June 2024: <ul style="list-style-type: none"> ○ Registered Speakers: Bruce Lakin as read by Adam Williams, Shane Bisset, Colin Edmonds, Gary Thompson, Stephen Balme and Arlette Rike on behalf of residents from Kunari Place & Park Road. ○ On behalf of the proponent: Andrew Thurlow, Brendan Nelson & David Robertson
5	BRIEFINGS BY THE PANEL	<ul style="list-style-type: none"> • Panel Briefing: 1:00pm – 1:47pm, 3 June 2024 <ul style="list-style-type: none"> ○ Panel members: Sue Francis (Acting Chair), Glennis James, Greg Woodhams & Annelise Tuor ○ DPHI staff: Doug Cunningham, Louise McMahon, Ian Woods, Shruthi Sriram, Thomas Holmes, Lisa Kennedy & Adam Williams ○ Key Issues Discussed: <ul style="list-style-type: none"> • Public exhibition submissions and issues of concern – number & types of submissions • Consultation with the Biodiversity Conservation and Science Group – provided 3 submissions concerned with ecological assessments and impacts of proposed development on threatened species, populations or ecological communities • Biodiversity – biodiversity assessment • Flooding and stormwater management – further work required on flood risk management; • Affordable housing – calculation GFA vs uplift;

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		<p>independent review of studies</p> <ul style="list-style-type: none">• Other issues – traffic and parking; density & built form; privacy & amenity• Status of the Mona Vale Place Plan – still being finalised• Preparation of a site-specific Development Control Plan – additional requirements to address biodiversity assessment, flooding, setbacks <ul style="list-style-type: none">• Panel Determination: 3:17pm – 3:57pm, 3 June 2024<ul style="list-style-type: none">○ Panel members: Sue Francis (Acting Chair), Glennis James, Greg Woodhams & Annelise Tuor○ DPHI staff: Doug Cunningham, Louise McMahon, Ian Woods, Lisa Kennedy & Adam Williams
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