



<b>DATE OF DETERMINATION</b>	Wednesday 21 March 2018
<b>PANEL MEMBERS</b>	Peter Debnam (Chair), Sue Francis, Julie Savet Ward, Steve Kennedy, Annelise Tuor
<b>APOLOGIES</b>	John Roseth
<b>DECLARATIONS OF INTEREST</b>	None

Public meeting held at Christie Conference Centre 100 Walker Street North Sydney on 21 March 2018, opened at 10.00am and closed at 11.15am.

**MATTER DETERMINED**

2017SNH079 – Northern Beaches – MOD2017/0270 at 23-29 Pacific Parade Dee Why (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 the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to refuse the development application as described in Schedule 1 pursuant to section 4.55 (previously section 96) of the *Environmental Planning and Assessment Act 1979*.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The decision was unanimous.

**REASONS FOR THE DECISION**

The Panel was mindful that in determining the original DA it removed the upper level 7 to maintain water views and minimise visual impact to the adjoining development. The proposed modification would negate the removal of the 7<sup>th</sup> level as originally approved and is considered unacceptable. The panel agrees with the report of Council staff and accordingly the modification is refused for the following reasons:

- The loss of water views from Level 5 of 10 Sturdee Parade and the detrimental visual impact to adjacent apartments on Levels 5, 6 and 7 at 10 Sturdee Parade is unacceptable in relation to the unauthorised air conditioner units and satellite dishes located on the roof.
- The Panel acknowledged the concerns of adjacent neighbours who have objected to the unauthorised work.
- The Panel acknowledged the Applicant had sought a deferral to investigate options to resolve the loss of views but the Panel concluded that there would be no utility in deferring the matter as no evidence was provided that the Applicant could reasonably achieve this outcome.
- The Panel accepts the Council's Report recommending refusal as set out in items 3, 4 and 6 as set out below.
  - The proposed development is inconsistent with the Clause 4.3 Height of Buildings of the Warringah Local Environmental Plan 2011. It causes a loss of significant water view to the adjoining development at 10 Sturdee Parade, specifically units on level 5. It also results in a significant detrimental visual impact to Levels 5, 6 and 7 of 10 Sturdee Parade.
  - The proposed development is inconsistent with the provisions of Clause D7 Views of the Warringah Development Control Plan because it directly results in the loss of significant water views from level 5 of 10 Sturdee Parade

- The proposed development is inconsistent with the provisions of Clause D11 Roofs of the Warringah Development Control Plan because it includes plant (a/c units and satellite dishes) which have a detrimental visual impact to adjoining properties

## CONDITIONS

Not applicable.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Sue Francis
 Julie Savet Ward	 Steve Kennedy
 Annelise Tuor	

**SCHEDULE 1**

<b>1</b>	<b>PANEL REF – LGA – DA NO.</b>	2017SNH079 – Northern Beaches – MOD2017/0270
<b>2</b>	<b>PROPOSED DEVELOPMENT</b>	Modification of Development Consent DA2014/1093 granted for the construction of a six storey Residential Flat Building (Stage 2 of Concept approval DA2013/1519).
<b>3</b>	<b>STREET ADDRESS</b>	SP 95882, 23 – 29 Pacific Parade DEE WHY NSW 2099
<b>4</b>	<b>APPLICANT/OWNER</b>	BBF Town Planners (Applicant) The Owners Of Strata Plan 95882 (Owner)
<b>5</b>	<b>TYPE OF REGIONAL DEVELOPMENT</b>	Section 96(2) Modification Application
<b>6</b>	<b>RELEVANT MANDATORY CONSIDERATIONS</b>	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (State and Regional Planning)</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy no.65 – Design Quality for Residential Flat Development</li> <li>○ State Environmental Planning Policy No.55 – Remediation of Land</li> <li>○ Warringah Local Environmental Plan 2011</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Warringah Development Control Plan 2011</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>
<b>7</b>	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Council assessment report: 12 March 2018</li> <li>• Written submissions during public exhibition: 13</li> <li>• Photos submitted at public meeting 21 March 2018 by Joe Bramwell-Smith and Paul Grounds</li> <li>• Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Object – Joe Bramwell-Smith, Paul Grounds, Jeff Cannings</li> <li>○ On behalf of the applicant – Joe Bechara</li> </ul> </li> </ul>
<b>8</b>	<b>MEETINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Site Visit &amp; Briefing meeting: 27 February 2018</li> <li>• Final briefing meeting to discuss council's recommendation, 21 March 2018. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam (Chair), Sue Francis, Julie Savet Ward, Steve Kenney, Annelise Tuor</li> <li>○ <u>Council assessment staff</u>: Lashta Hairdari, Anna Williams</li> </ul> </li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Refusal
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report