



DATE OF DETERMINATION	2 September 2020
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Cheryl Szatow, Martin Smith
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held teleconference on 2 September 2020, opened at 10am and closed at 11.52am.

MATTER DETERMINED

2018SNH040 – Ku-ring-gai – DA0134/18 at 64-66 Pacific Highway Roseville for mixed use development (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 written requests from the applicant, made under cl 4.6 (3) of the Ku-ring-gai Local Environmental Plan (Local Centres) 2012 (LEP), that have demonstrated that:

- compliance with cl. 4.3 Building Height and Clause 4.4 Floor Space Ratio 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) and cl.4.4 (Floor Space Ratio) of the LEP and the objectives for development in the B2 Local Centre 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 3:2 in favour, against the decision were Cheryl Szatow and Martin Smith.

REASONS FOR THE DECISION

The majority of the Panel (Peter Debnam, Julie Savet Ward and Brian Kirk) determined to uphold the Clause 4.6 variations to floor space ratio and building height and approve the application.

The Panel notes the Roseville Club on the site has been a gathering place and facility for the local community for many years and has played an important community role. The proposal before the Panel has been presented as an opportunity to revitalise the Club as well as the site which has been zoned to accommodate a diverse mix of land uses. The development planning framework and controls generally contemplate development of the type, form and scale proposed for this site.

The proposal includes the construction of a six storey shop-top housing development with three levels of basement car parking. The mixed use development comprises a club on the ground floor and residential dwellings located above with roof top communal open space. The proposed development is not expected to exacerbate any existing parking problem in the area and traffic modelling indicates it would not generate additional, adverse local traffic volumes. The proposal involves use of Council land adjacent to Larkin Lane and Council has provided owner's consent for the proposal.

The site is recognised in the DCP as providing an opportunity for a landmark building on the southeastern corner adjoining the park. Additionally, to reduce impacts on adjoining lower density and height neighbours, the design allocates significant building mass to the south eastern corner.

The Panel considered the proposal during two public meetings in March and September and resolved to defer its determination in the first meeting and then approved the development at the September meeting for the reasons discussed below.

At the March meeting, the Panel was of the view the DA could not be approved given the outstanding Contamination Report and the inadequacy of the Clause 4.6 written requests for the Breach of Height and FSR. However, the Panel felt there was merit in the proposal warranting a deferral to await the Contamination Report and to resolve the issues detailed in the record of deferral.

In late May, the Applicant submitted comprehensive responses to the issues raised in the deferral and these were reviewed by the Independent Assessor and have been addressed in the Supplementary Assessment Report.

The majority of the Panel considers the deferral issues and Applicant responses are satisfactorily resolved as below:

- The Applicant appropriately addressed Height and FSR in their Clause 4.6 written request and the majority of the Panel concurs with their justification;
- The outstanding Contamination Report was submitted by the Applicant and concluded "*the site is not expected to be contaminated with dry cleaning chemicals*" and "*the site is suitable for the proposed development, from a contamination perspective, in general accordance with the requirements of SEPP 55 and NEPM (2013)*". Further the report noted contamination is unlikely and the Panel concurs the Stage 2 investigation satisfies the requirements of SEPP 55;
- Historic car parking credits were clarified and the Applicant also reviewed the allocation of parking spaces and amendments to the basement design were proposed by the Applicant at the meeting to increase total car spaces to 57 spaces and increase spaces allocated to the Club from 5 to 11;
- Concerns regarding the Gaming Room Smoke Exhaust and the Visual Interface between the room and the street were addressed through design changes.
- The Applicant prepared a list of sustainable commitment initiatives including thermal comfort, energy, water and stormwater, building materials and landscaping;
- Acoustic concerns were reviewed by the Applicant and have been addressed;
- Amendments to the building design heights from Basement through to the Communal Open Space on the roof have addressed Panel concerns with height and sprinkler issues listed in the Deferral;
- The Applicant submitted further information to clarify proposed easements/positive covenants and the public benefit; and

- Other improvements to the proposal were submitted by the Applicant to clarify or improve several minor design issues.

Overall, the Applicant's response to the Deferral presented an improved outcome for the Club, Residents and the community, in the view of the majority of the Panel.

The majority of the Panel considers the revised proposal to be in the public interest.

Panel Members, Martin Smith and Cheryl Szatow elected to refuse consent to the development application, principally, but not exclusively, being of the opinion that the applicant had not provided sufficient environmental planning grounds particular to the circumstances of the proposed development, to demonstrate dispensation from compliance with the development standards. They are of the opinion that the request submitted under Clause 4.6 of the Ku-ring-gai LEP (Local Centres) 2012 to vary Clause 4.3 - Building height and Clause 4.4 FSR has not met the requirements of Clause 4.6(3), nor Clause 4.5(1) (b) (i), the inclusion of Lot 2 DP202148 in FSR calculations remaining problematic.

CONDITIONS

The Development Application was approved subject to the conditions in the council memo dated 26 August 2020 with the following amendment:

- Condition 48 amended to read as follows (new condition 48A and 48B):

48A. Car parking allocation

Car parking within the development shall be allocated as follows:

Club spaces	Minimum 11 spaces and maximum 27 spaces
Resident car spaces	Minimum 28 spaces and maximum 45 spaces
Visitor spaces	6 spaces
Total spaces	Minimum 57 spaces

Each adaptable dwelling must be provided with car parking complying with the dimensional and location requirements of AS2890.1 - parking spaces for people with disabilities. The car parking allocated within the basement must be amended to demonstrate accessible spaces are allocated to units (designated accessible units).

At least one visitor space shall also comply with the dimensional and location requirements of AS2890.1 - parking spaces for people with disabilities.

The car parking shall be dedicated to the corresponding units based on bedroom numbers as approved and cannot be sold separately.

Consideration must be given to the means of access from disabled car parking spaces to other areas within the building and to footpath and roads and shall be clearly shown on the plans submitted with any Construction Certificate.

Reason: To ensure equity of access and appropriate facilities are available for people with disabilities in accordance with federal legislation.





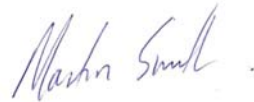
48B. Club car parking

Any carparking spaces allocated for Club usage, which are located on the Residential parking side of the security roller door on Basement Level 1, are to be used by Club Directors and Staff and not by Club visitors except for visitors needing to access a disabled parking space.

Reason: To ensure the security and safety of the residential parking area is protected.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all objectors and supporters wishing to address the panel. The Panel notes objectors' issues of concern included building scale, heritage, overshadowing, inconsistency with planning controls, FSR calculations, parking, sale of council land, street activation, S94 contributions, AGD and Roseville apartment numbers. The majority of the Panel considers concerns raised by the community have been adequately addressed in the Assessment Report, by Applicant and Assessor responses during the meeting and by amended conditions.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Cheryl Szatow
 Martin Smith	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018SNH040 – Ku-ring-gai – DA0134/18
2	PROPOSED DEVELOPMENT	Subdivision of land, demolish existing structures (including Roseville Memorial Club and retail tenancy) and construct mixed- use building comprising new ground floor Memorial Club, shop-top housing of 33 residential dwellings, basement parking and associated works.
3	STREET ADDRESS	62 to 66 Pacific Highway, Roseville NSW
4	APPLICANT/OWNER	Ku-ring-gai Council (62 Pacific Highway, Roseville) Roseville Returned Servicemen's Memorial Club Limited (64-66 Pacific Highway, Roseville)
5	TYPE OF REGIONAL DEVELOPMENT	Council related development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No.55 – Remediation of Land State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development State Environmental Planning Policy (BASIX) State Environmental Planning Policy (Vegetation in No-Rural Areas) Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005 (Deemed SEPP) Ku-ring-gai Local Environmental Plan (Local Centres) 2012 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Ku-ring-gai Development Control Plan 2016 Ku-ring-gai Development Contributions Plan 2010 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: <ul style="list-style-type: none"> Clause 92(1)(B) Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 6 February 2020 Clause 4.6 Height of Building written request Clause 4.6 Floor Space Ratio written request Applicants response: 27 February 2020 Council supplementary report: 18 August 2020 Council memo with conditions: 26 August 2020 Applicant Response: 27 August 2020 Written submissions during public exhibition: 77 Verbal submissions at the public meeting 4 March 2020: <ul style="list-style-type: none"> In support – Russell Norwood, Bill Brookman, John Whitworth, David Barker, Wayne Kearns, Adrian Minaard, Alex Roth In objection – Soon lee, David Castle, Natalie Richter for Emma Addario, Frank Walker

		<ul style="list-style-type: none"> ○ Council assessment officer – Vince Hardy – Independent assessor ○ On behalf of the applicant – Stephen Abolakian, Tina Christy, Aaron Gadiel, Tim Rogers, Renzo Tonin, Phillip Lord • Verbal submissions at the public meeting 2 September 2020: <ul style="list-style-type: none"> ○ In support – John Whitworth, Alex Roth, Russell Norwood, David Barker, Adrian Minnard ○ In objection – David Castle, Emma Addario, Lynee Lee, Frank Walker, Michael Tan, Peter Kelly ○ Council assessment officer – Vince Hardy (independent consultant), Stuart Ratcliff ○ On behalf of the applicant – Tina Christy, Aaron Gadiel, Stephen Abolakian
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 5 September 2018 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), John Roseth, Cedric Spencer ○ <u>Council assessment staff</u>: Janice Buteux-Wheeler, Selwyn Segall, Brian O’Connell, Jamie Talor, Chris Drury, Joseph Piccollo, Tempe Beaven, Corrie Swanepoel, Vince Hardy (consultant planner), Kerry Hunter (Urban Design consultant) • Site inspection: 4 March 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Save Ward, Brian Kirk, Cheryl Szatow, Martin Smith • Final briefing to discuss council’s recommendation, 4 March 2020. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Save Ward, Brian Kirk, Cheryl Szatow, Martin Smith ○ <u>Council assessment staff</u>: Brian O’Connell, Ian Francis, Stuart Ratcliff, Adam Richardson, Vince Hardy, Michael Miocic, Kerry Hunter • Final briefing to discuss council’s recommendation: 2 September 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Cheryl Szatow, Martin Smith • <u>Council assessment staff</u>: Stuart Ratcliff, Shaun Garland, Adam Richard, Kerry Hunter, Vince Hardy (independent consultant), Brian O’Connell
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Attached to the council assessment report