



DATE OF DETERMINATION	2 December 2022
DATE OF PANEL DECISION	30 November 2022
DATE OF PANEL MEETING	24 November 2022
PANEL MEMBERS	Roberta Ryan (Acting Chair), Brian Kirk, Anthony McBurney, Sameer Pandey, Dan Siviero
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 18 November 2022.

MATTER DETERMINED

PPSSCC-335 – City of Parramatta – DA/56/2022 – 18 Sophie Street, Telopea - Construction of a part three (3) and part four (4) storey Residential Flat Building consisting of seven (7) one-bedroom units and fourteen (14) two-bedroom units over basement parking with sixteen car parking spaces, an outdoor communal area and associated landscaping.

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.

Application to vary a development standard

The development proposal does not comply with the maximum 11m building height development standard detailed in Clause 4.3 of the Parramatta Local Environmental Plan 2011 (PLEP). The proposed maximum building height is 12.47m (central part of the building), which exceeds the maximum permissible building height by 1.47m; a 13.36% variation to the development standard.

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the PLEP, that has demonstrated that:

- compliance with cl. 4.3 (Height of Buildings standard) 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 PLEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.3 (Height of Buildings standard) of the PLEP and the objectives for development in the R4 High Density Residential 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; and approve the application contrary to the recommendations in the Council assessment report, which proposed refusal of this application on grounds relating to a shortfall in the provision of on-site car and bicycle parking. 17 on-site car spaces are proposed, a shortfall of five car spaces as required under Council's DCP. Council otherwise considered the application satisfactory in relation to relevant matters under s. 4.15 of the *Environmental Planning and Assessment Act 1979*. Council is satisfied that the bulk and scale of the development, including the variation to building height and numerical variations to the built form controls, is suitable for the site and its context, and the Panel agrees with this assessment.

The Panel was briefed by Council and the Applicant and its representatives. The Panel interrogated both Council and the Applicant about the recommended reasons for refusal, which are limited to the quantity and configuration of on-site car and bicycle parking. The Panel accepts the Applicant's position that the need and desirability for additional car and bicycle parking, and in a different configuration to what is proposed, is not warranted in this particular instance because: -

1. the access this site offers to a range of existing and future public transport options.
2. the potential for the safety and security of future residents of the development to be compromised by the inclusion of an additional basement level.
3. the low levels of car ownership in affordable housing developments by the Applicant, particularly having regard to 1. above, and
4. the reasonable development of this site by the applicant will enable 'decanting' existing public housing to 'unlock' the development of a significant quantity (noted to be in excess of 4000 homes) of much needed additional housing in the area, and in this respect, there is clear and specific public benefit.

It is for these reasons the Panel does not consider that approval of this application will set an unfortunate precedent for other developers not to provide car parking required under Council's DCP.


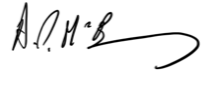
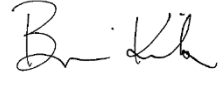

During the briefings with Council and the Applicant an issue was raised at late notice about the possibility of this proposed development resulting in the "isolation" (meaning that it will have nil or limited future development potential) of 1 Fullarton Street, Telopea (the adjoining property to the south). The Applicant submitted information to the Panel sufficient for the Panel to form the opinion, having regard to the principles established in *Karavellas v Sutherland Shire Council [2004] NSWLEC 251*, that 1 Fullarton Street can be satisfactorily developed in the future, for a form of development contemplated by the R4 zoning, and will not become isolated in a planning sense, if it is not included in the redevelopment of 18-22 Sophie Street, Telopea.

CONDITIONS

The development application was approved subject to the conditions provided to the Panel by Council on 30 November 2022, which have been agreed to by the Applicant.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
Roberta Ryan (Acting Chair) 	Anthony McBurney 
Brain Kirk 	Samer Pandey 

Dan Siviero

A handwritten signature in black ink, appearing to read 'Dan Siviero', located to the right of the printed name.

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-335 – City of Parramatta – DA/56/2022
2	PROPOSED DEVELOPMENT	Construction of a part three (3) and part four (4) storey Residential Flat Building consisting of seven (7) one-bedroom units and fourteen (14) two-bedroom units over basement parking with sixteen car parking spaces, an outdoor communal area and associated landscaping.
3	STREET ADDRESS	18 Sophie Street, Telopea
4	APPLICANT/OWNER	Applicant: NSW Land and Housing Corporation Owner: NSW Land and Housing Corporation
5	TYPE OF REGIONAL DEVELOPMENT	Crown 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 (Planning Systems) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development Parramatta Local Environmental Plan 2011 (PLEP 2011) Draft environmental planning instruments: Draft Parramatta Local Environmental Plan 2020 (DLEP 2020) Development control plans: <ul style="list-style-type: none"> Parramatta Development Control Plan 2011 (PDCP 2011) Planning agreements: Agreement to the installation of a dual reticulation water system Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil 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: 18 November 2022 Clause 4.6 variation for Height of Buildings. Written submissions during public exhibition: 0 Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Applicant Briefing: 10 February 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Roberta Ryan (Acting Chair) <u>Council assessment staff</u>: Alicia Hunter <u>Applicant representatives</u>: Richard Wood, Gilead Chen, Ambrose Marquart, Carolyn Howell, Deborah Gilbert, Jon Pizey, Edmond Tang, Meng Ng Assessment Briefing: 7 July 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Roberta Ryan (Acting Chair), Anthony McBurney, Julie Savet Ward <u>Council assessment staff</u>: Alicia Hunter, Myfanwy McNally

		<ul style="list-style-type: none"> ○ <u>Applicant representatives</u>: Richard Wood, Gilead Chen, Ambrose Marquart, Carolyn Howell, Deborah Gilbert, Jon Pizey, Edmond Tang, Meng Ng • Council Briefing: 29 September 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Roberta Ryan (Acting Chair), Brian Kirk, Anthony McBurney, Sameer Pandey, Dan Siviero ○ <u>Council assessment staff</u>: Alicia Hunter, Najeeb Kobeissi, Claire Stephens • Final briefing to discuss council's recommendation: 24 November 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Roberta Ryan (Acting Chair), Brian Kirk, Anthony McBurney, Sameer Pandey, Dan Siviero ○ <u>Council assessment staff</u>: Alicia Hunter, Najeeb Kobeissi, Claire Stephens ○ <u>Applicant representatives</u>: Richard Wood, Gilead Chen, Ambrose Marquart, Carolyn Howell, Deborah Gilbert, Jon Pizey, Edmond Tang, Meng Ng
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report