

## DETERMINATION AND STATEMENT OF REASONS

### SYDNEY CENTRAL CITY PLANNING PANEL

<b>DATE OF DETERMINATION</b>	27 November 2023
<b>DATE OF PANEL DECISION</b>	27 November 2023
<b>DATE OF PANEL BRIEFING</b>	23 November 2023
<b>PANEL MEMBERS</b>	Abigail Goldberg (Chair), Brian Kirk, Chris Quilkey, Moninder Singh
<b>APOLOGIES</b>	Steve Murray
<b>DECLARATIONS OF INTEREST</b>	David Ryan declared a conflict of interest as the company he works for is engaged on other project work for the applicant

Papers circulated electronically on 9 November 2023.

#### MATTER DETERMINED

PPSSCC-446 – Blacktown – DA-23-00337 – 30 First Avenue, Blacktown - Construction of a 21 storey commercial tower including basement car parking, shops, function centres, offices, stormwater drainage, landscaping and site works.

Hours of operation:

- retail premises (shops) 7am to 10pm
- function centre 10am to 12am (midnight)
- office use 7.30am to 9pm.

#### PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings and the matters listed at item 8 in Schedule 1.

#### Development application

The panel determined to refuse 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 decline the Clause 4.6 variation to building height request and refuse the application for the reasons outlined in the council assessment report, notably:

- General terms of approval have not been provided by WaterNSW in line with Clause 4.47 of Environmental Planning and Assessment Act 1979 and Clause 90(2) of Water Management Act 2000
- Concurrence has not yet been provided from Sydney Trains as required under Clause 4.13 of Environmental Planning and Assessment Act 1979 and Clause 2.99 of State Environmental Planning Policy (Transport and Infrastructure) 2021
- Insufficient evidence in relation to contamination has not been provided to determine if the site is suitable for the proposed development under Clause 4.6(1) of the State Environmental Planning Policy (Resilience and Hazards) 2021
- Council considers that the proposal fails to exhibit design excellence required by Clause 7.7 of Blacktown Local Environment Plan 2015
- Council considers that the Clause 4.6 variation request in relation to the maximum building height does not provide satisfactory justification under Blacktown Local Environment Plan 2015.

Of particular note, notwithstanding that cl.2.99(5) of State Environmental Planning Policy (Transport and Infrastructure) 2021 permits consent to be granted in this instance without the concurrence of the rail authority, the Panel considers that to do so, having regard to the location of the site and the circumstances of this development, would be improper and ill-advised; and very likely to result in a poor planning outcome.

#### CONDITIONS





Not applicable.

#### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition. The panel notes that issues of concern included:

- Inconsistencies between documents
- Cost of works
- Inadequate building separation
- Construction management plan issues relating to traffic and parking
- Additional traffic generation and parking issues
- Unsatisfactory acoustics assessment, noise and vibration management plans
- Unsatisfactory waste management plan and deliveries
- Unsatisfactory site contamination and geotechnical approach
- Survey plan insufficient
- Overshadowing
- Impact on property values.

The panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
 Abigail Goldberg (Chair)	 Brian Kirk
 Chris Quilkey	 Moninder Singh

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-446 – Blacktown – DA-23-00337
2	PROPOSED DEVELOPMENT	<p>Construction of a 21 storey commercial tower including basement car parking, shops, function centres, offices, stormwater drainage, landscaping and site works.</p> <p>Hours of operation:</p> <ul style="list-style-type: none"> <li>- retail premises (shops) 7am to 10pm</li> <li>- function centre 10am to 12am (midnight)</li> <li>- office use 7.30am to 9pm</li> </ul>
3	STREET ADDRESS	30 First Avenue, Blacktown
4	APPLICANT/OWNER	<p>Applicant: UPG Pty Ltd/Bathla</p> <p>Owner: Sneh and Samisha Pty Ltd</p>
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ Environmental Planning and Assessment Act 1979.</li> <li>○ Water Management Act 2000.</li> <li>○ State Environmental Planning Policy (Planning Systems) 2021.</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021.</li> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021.</li> <li>○ Blacktown Local Environmental Plan 2015.</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: Blacktown Development Control Plan 2015.</li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Clause 36</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>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 23 October 2023</li> <li>• Clause 4.6 variation: Building Height</li> <li>• Written submissions during public exhibition: 3</li> <li>• Total number of unique submissions received by way of objection: 3</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Kick Off Briefing: 15 June 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Steve Murray, Chris Quilkey, Moninder Singh</li> <li>○ <u>Council assessment staff</u>: Judith Portelli, Shakeeb Mushtaq, Olivia Betts</li> <li>○ <u>Applicant representatives</u>: Vandana Vandana, Kean Lim, Ladan Pandarathil, Weihui (Vera) Huang</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Final briefing to discuss council's recommendation: 23 November 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Abigail Goldberg (Chair), Brian Kirk, Chris Quilkey, Moninder Singh</li> <li>○ <u>Council assessment staff</u>: Shakeeb Mushtaq, Olivia Betts, Matt Sales, Nazar Badshah, Abdel Albaba, Sara Rabah, Yael Lang, Joanna Niedbala</li> <li>○ <u>Applicant representatives</u>: Nil</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	Not applicable