

DATE OF DETERMINATION	17 June 2021
PANEL MEMBERS	Carl Scully (Chair), Jan Murrell, Roberta Ryan, Monica Wangmann, Ted Cassidy
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Meeting held by videoconference on 17 June 2021, opened at 9.30am and closed at 10.30am.

MATTER DETERMINED

PPSSEC-100 – Inner West – DA/2020/0815 at 120C Old Canterbury Road, Summer Hill – The Yard 120C - Construction of an 8-storey mixed-use development comprising ground level retail, 54 residential units, three levels of basement car parking and a pocket park.
(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 a written request from the applicant, made under cl 4.6 (3) of the Ashfield Local Environmental Plan 2013 (LEP), that has demonstrated that:

- compliance with cl. 4.6 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. 4.6 of the LEP and the objectives for development in the B4 zone; and
- the concurrence of the Secretary has been assumed.

Development application

The Panel determined to approve the development application as shown in the amended plans, dated 21st April 2021, 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 floor space ratio; and approve the application for the reasons outlined in the Council Officer's assessment report.

- The Panel is satisfied the development incorporates the changes required by the Panel on 1st April 2021 and as such adverse impacts have been ameliorated to warrant approval of the development. The amendments resulted in a number of changes including:
 - Deletion of habitable floor space that would have been subject to inundation in a flood event
 - Increased setbacks
 - Greater compliance with the ADGs
 - Design changes for privacy screens
 - The architectural presentation of the building

CONDITIONS

The development application was approved subject to the conditions in the Council Officer's assessment report with the following amendments.

Amend condition 109 to read as follows:

- Landscaping Works and Maintenance All landscaping, including the plantings within the Green Walls and Facades as part of this consent are to be maintained in a healthy and vigorous condition for the life of the development from the issue of an Occupation Certificate. If any of the plantings are found faulty, damaged, dying or dead they must be replaced with the same species within one (1) month.

CONSIDERATION OF COMMUNITY VIEWS

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

- Risk impacts during construction
- Height
- Density
- ADG – building separation in number of locations
- Flood risk exacerbated during excavation
- Access road
- Garbage trucks
- Light and privacy
- Parking and traffic
- Specific impacts on 120A and 14 McGill
- Difficult of exiting from 14 McGill onto Old Canterbury Road
- Overshadowing
- Biodiversity – bandicoots
- Public transport capacity
- Material of privacy hood
- Pedestrian bridge – privacy, acoustics, and safety
- Acoustic
- VPA
- Communication between residents

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report. The Panel notes that in addressing these issues appropriate conditions have been imposed.

PANEL MEMBERS




Carl Scully (Chair)



Jan Murrell



Roberta Ryan



Monica Wangmann



Ted Cassidy

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-100 – Inner West – DA/2020/0815
2	PROPOSED DEVELOPMENT	Construction of an 8-storey mixed-use development comprising ground level retail, 54 residential units, three levels of basement car parking and a pocket park
3	STREET ADDRESS	120C Old Canterbury Road, Summer Hill
4	APPLICANT/OWNER	Applicant: Mr Conrad GT Johnston Owners: Mr Tyron P Timperi & Mr Rick Timperi
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: • Owner's Consent • Biodiversity Conservation Act 2016 <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 Apartment Development ○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ○ Ashfield Local Environmental Plan 2013 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Inner West Comprehensive Development Control Plan 2016 • Planning agreements: Nil • 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: 8 March 2021 • Clause 4.6 variation requests – floor space ratio • Written submissions during public exhibition: 18 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Arman Kusmanov, Ian Dobinson, Sichen Song, Sarah Leong ○ On behalf of Council – Conor Wilson, Luke Murtas ○ On behalf of the applicant – Anthony Betros, Conrad Johnston, Jamie Howieson, Brett Phillips • Total number of unique submissions received by way of objection: 18 • Council Addendum assessment report: 27 May 2021
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 8 December 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Roberta Ryan, Monica Wangmann, Ted Cassidy ○ <u>Council assessment staff</u>: Conor Wilson, Jai Reid

		<ul style="list-style-type: none"> • Site inspection: Panel members visited the site independently, prior to 1 April 2021 • Final briefing to discuss council's recommendation: 1 April 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Monica Wangmann, Ted Cassidy ○ <u>Council assessment staff</u>: Conor Wilson, Luke Murtas • Public determination meeting (<i>decision deferred</i>): 1 April 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Monica Wangmann, Ted Cassidy ○ <u>Council assessment staff</u>: Conor Wilson, Luke Murtas • Final briefing to discussed council's recommendation (addendum report dated 27 May 2021): 17 June 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Jan Murrell, Monica Wangmann, Ted Cassidy ○ <u>Council assessment staff</u>: Conor Wilson, Luke Murtas ○ <u>Applicant</u>: Conrad Johnston, Jamie Howieson, Tyron Timperi, Rick Timperi
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council assessment report