

DETERMINATION AND STATEMENT OF REASONS

SYDNEY EASTERN CITY PLANNING PANEL

DATE OF DETERMINATION	4 November 2024
DATE OF PANEL DECISION	4 November 2024
DATE OF PANEL MEETING	31 October 2024
PANEL MEMBERS	Carl Scully (Chair), Alice Spizzo, Susan Francis, Jan Murrell and Peter Brennan
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 31 October 2024, opened at 2.32pm and closed at 3.55pm.

MATTER DETERMINED

PPSSEC-307 - Waverley - DA-22/2024 - 669, 671, 673, 675, 677, 679, 681 & 683 Old South Head Road, Vaucluse - Demolition of all structures and construction of a seniors housing development comprising of 30 units contained within four-storey buildings, with retail and business premises at ground floor level, two basement levels of vehicle parking and consolidation of lots (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 the site inspection listed at item 8 in Schedule 1.

Applications to vary development standards

Following consideration of the written requests from the applicant, made under cl 4.6 (3) of the Waverley Local Environmental Plan 2012 (LEP), the Panel is satisfied that the applicant has demonstrated that:

- compliance with sections 84 (3)(c) (Height of building), 87 (Floor Space Ratio), 108(2)(a) (Height of building), 108(2)(b) (Height of building), 108(2)(c) (Floor Space Ratio) of SEPP (Housing) 2021, Section 84(3)(c) of SEPP (Housing) 2021 and clause 4.3 (Height of Buildings) and clause 4.4 (Floor Space Ratio) of Waverley LEP 2012 is unreasonable or unnecessary in the circumstances because the objectives of the floor space ratio development standard expressed in clause 4.4(1) of Waverley LEP 2012 and the relevant objectives of the height of buildings development standard expressed in clause 4.3(1) of Waverley LEP 2012 have been achieved despite the non-compliance with the development standard by the proposed development; and
- there are sufficient environmental planning grounds to justify contravening the development standard as the proposed development is consistent with the desired future character of the area, the majority of the additional floor space is located below the existing ground level, an appropriate response to the streetscape has been provided, with no unreasonable overshadowing of windows and private open spaces of adjoining residential properties.

The Panel determined to uphold the Clause 4.6 variations to floor space ratio and building height.

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 has carefully considered the submissions, both oral and written, made to the application. It is acknowledged that the proposed facilities building to be located adjacent to the common boundary with 9 and 11 Wilfield Avenue, Vaucluse, will be higher than the height of the existing hedge, which may vary from time to time. However, the Panel considers that the impact would not warrant refusal of the application and is not unreasonable.

The Panel has provided further conditions to ensure that the dilapidation report covers the above properties, including the retaining walls on all boundaries and that a copy of the dilapidation report is to be provided to each owner.

The Panel heard from residents that they were concerned with the quantum of parking to be provided and also concerns with the traffic generation from the development. The Panel notes that less resident parking often results in less traffic generation but the Panel notes that the quantum of resident parking to be provided complies with SEPP requirements. In addition, however, the development is to provide additional visitor parking in perpetuity.

The Panel concurs with the Council Officer's Report, including that the floor space ratio and building height variations do not cause any unreasonable adverse impacts.

CONDITIONS

The Development Application is approved subject to the conditions in the Council Assessment Report with the following amendments.

- Amend Condition 2(c) to read as follows:
2(c) The design and specific allocation of car parking spaces in the development are to be amended in accordance with Condition 86 of this development consent
- Amend Condition 44 Dilapidation Report to include the following properties
44(c) 9 and 11 Wilfield Avenue (inclusive of all retaining walls)






CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Traffic and parking
- Density, floor space ratio, overdevelopment
- Visual and acoustic privacy
- Safety
- Lack of public transport
- Height, bulk, scale
- Overshadowing
- Stormwater and sewage
- Streetscape character
- Noise impacts
- Tree removal and landscaping
- Sustainability and environmental impacts
- Restrictions for use as seniors housing
- Excavation
- Setbacks
- Construction issues (noise, disturbance, trade traffic and parking), construction hours should be limited
- Wind tunnel and overshadowing of the road causing problems for traffic due to lack of visibility
- Local infrastructure (sewage, stormwater, roads, schools, etc) unable to cope with increased densities
- No staff parking
- Five buses routes that the documentation refers to are disputed
- Development is bigger than the previous approved development consents for the site

- Shadow diagrams do not show the entire day
- Number of apartments is not enough given the housing shortage, the apartments are too large for retirees
- Loss of natural light
- Inadequate notification
- Car charges are a potential fire hazard
- Inaccuracies in documentation
- High fences will cause increased overshadowing at the rear. Photomontages and artist's impressions show high fences
- Trees will cause overshadowing
- Impacts upon neighbouring trees/hedges etc
- Boundary walls have not been discussed with neighbouring properties
- Internal details of proposed structures on the landscape plans do not match the architectural plans
- Rear toilets are not shown on the overshadowing diagrams
- Land level at the rear is to be raised
- Seniors do not ride motorbikes or bicycles and therefore there is too much parking for these which should be converted to more vehicular parking
- Apartments will not be affordable
- Engineering details have not been provided (ie. structural, stormwater, piling)
- Odours from the shop use and kitchens
- Disputing the accuracy of the uses of surrounding shops in the contamination report

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and that no new issues requiring assessment were raised during the public meeting. The Panel notes that in addressing these issues, appropriate conditions have been imposed. The Panel is satisfied that the development was appropriately notified in accordance with Council's policy.

PANEL MEMBERS	
 Carl Scully (Chair)	 Susan Francis
 Alice Spizzo	 Jan Murrell
 Peter Brennan	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSEC-307 – Waverley – DA-22/2024
2	PROPOSED DEVELOPMENT	Demolition of all structures and construction of a seniors housing development comprising of 30 units contained within four-storey buildings, with retail and business premises at ground floor level, two basement levels of vehicle parking and consolidation of lots
3	STREET ADDRESS	669-683 Old South Head Road, Vaucluse
4	APPLICANT/OWNER	Blare Management P/L
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Resource and Energy) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Waverley Local Environmental Plan 2012 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Waverley Development Control Plan 2022 Planning agreements: Voluntary Planning Agreement (dated 15 December 2023) from Blare Management Pty Ltd – monetary contribution for affordable housing and additional gross floor area Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> 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: 15 October 2024 Clause 4.6 variations: Sections 84 (3)(c) (Height of building), 87 (Floor Space Ratio), 108(2)(a) (Height of building), 108(2)(b) (Height of building), 108(2)(c) (Floor Space Ratio) of SEPP (Housing) 2021, Section 84(3)(c) of SEPP (Housing) 2021 and Cl.4.3 (Height of buildings) and Cl.4.4 (Floor Space Ratio) of Waverley LEP 2012 Written submissions during public exhibition: 48 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Warwick Eaton, Perimnder Sachdev, Paul Schroder, Susan Raber, Catherine Surany, Chris Deale and Matthew Vincent Council assessment officer – Kylie Lucas, Ben Magistrale On behalf of the applicant – Guy Lake, Jeremy Bryden, Stuart Gordon and Sally Hsu Total number of unique submissions received by way of objection: 48
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 23 April 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Carl Scully (Chair), Amelia Thorpe and Jan Murrell

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Jo Zancanaro and Ben Magistrale ○ <u>Department staff</u>: Carolyn Hunt <ul style="list-style-type: none"> • Site inspection: 31 October 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Francis, Jan Murrell and Peter Brennan ○ <u>Council assessment staff</u>: Kylie Lucas and Ben Magistrale • Final briefing to discuss Council's recommendation: 31 October 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Carl Scully (Chair), Alice Spizzo, Susan Francis, Jan Murrell and Peter Brennan ○ <u>Council assessment staff</u>: Kylie Lucas, Ben Magistrale ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report