

DATE OF DETERMINATION	7 April 2021
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, David White, Ross Walker
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 29 March 2021.

MATTER DETERMINED

PPSSNH-179 – Hornsby – DA1015/2020 at 91 Pacific Highway for facilities at Barker College (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 Hornsby Local Environmental Plan 2013 (LEP), that has demonstrated that:

- a) compliance with cl.4.3 (height) is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of c cl.4.3 (height) is of the LEP and the objectives for development in the R2 Low Density Residential zone; and
- c) 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* for the reasons outlined below and in Council's Assessment Report.

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.

Under Clause 4.3 of the Hornsby Local Environmental Plan 2013 (HLEP) the maximum permissible height for the subject site is 8.5m. The proposed development would achieve a maximum building height of 14.5m (including plant) and does not comply with this provision. The HLEP defines 'building height' as the vertical distance from ground level (existing) to the highest point of the building ... including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like. The Applicant's written request seeks to vary the development standard by 6m, which represents a 52% variation to the development standard.

The Panel concurs with Council that the Applicant's written request is well founded as the objectives of the development standard are achieved notwithstanding non-compliance and the proposed building height, bulk and scale are comparable to existing development on the site. In particular, the proposed development would

achieve a similar bulk and scale to the three storey 'Rosewood Centre' located 25m east of the proposed development.

The development is located within the central portion of the site and makes use of limited available space. Given the substantial distance to adjoining properties, the built form would not have a detrimental impact on adjoining properties with regard to bulk and scale, privacy, overshadowing and amenity. In addition, the proposed three-storey development would have a reduced building footprint when compared to an 8.5m high two storey development, resulting in an overall increase in outdoor play space and landscaped area on the site.

The proposed building would not unreasonably increase demand for infrastructure capacity within the locality. The proposed application does not propose any increase in student numbers, would not require any alterations of existing electricity, sewerage or drainage systems and would not necessitate additional car parking on-site.

For the reasons outlined above, the Panel concurs with Council that the Applicant's written request to vary the height of building standard adequately demonstrates that the objectives of the height of buildings development standard contained within Clause 4.3 of the HLEP are achieved, notwithstanding non-compliance with the standard.

The development application proposes the addition of first and second floor levels to an approved single storey cafeteria for use as a general maths and student hub.

The Panel noted Barker College also currently satisfies the requirements of Clause 35 (6) (b) of the SEPP (Educational Establishments and Child Care Facilities) 2017 as the school enables the use of its existing indoor swimming facility and multipurpose courts to be shared with the community.



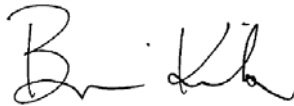


The development generally meets the desired outcomes of Council's planning controls and is satisfactory having regard to the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979. The proposed development would not result in any unreasonable impacts and is suitable for the site. Council received no submissions during the public notification period and the Panel believes approval of the application is in the public interest.

CONDITIONS

The development application was approved subject to the conditions in Council's Assessment Report.

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	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 David White
 Ross Walker (OAM)	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-179 – Hornsby – DA1015/2020
2	PROPOSED DEVELOPMENT	The addition of first and second floor levels to an approved single storey cafeteria for use as a general maths and student hub.
3	STREET ADDRESS	Lot 100 DP 1262386, Barker College, No. 91 Pacific Highway, Hornsby
4	APPLICANT/OWNER	David Porter / The Council of Barker College
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities 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 (Educational Establishments and Childcare Facilities) 2017 State Environmental Planning Policy No.55 Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (Koala Habitat Protection) 2020 State Environmental Planning Policy No. 20 Hawkesbury-Nepean River Hornsby Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Hornsby Development Control Plan 2013 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: 29 March 2021 Clause 4.6 Variation (Height) Council memo: 30 March 2021 Applicant Letter: 7 April 2021 Written submissions during public exhibition: Nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 17 March 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, David White, Ross Walker <u>Council assessment staff</u>: Thomas Dales, Rodney Pickles Final briefing to discuss council's recommendation: 7 April 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, David White, Ross Walker <u>Council assessment staff</u>: Thomas Dales, Rodney Pickles
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report