

<b>DATE OF DETERMINATION</b>	3 June 2022
<b>DATE OF PANEL DECISION</b>	3 June 2022
<b>PANEL MEMBERS</b>	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Ken Robinson and Kevin Alker
<b>APOLOGIES</b>	Virginia Waller
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 23 May 2022.

#### **MATTER DETERMINED**

PPSSNH-191 – North Sydney – DA19/2021, 110-122 Walker Street, North Sydney, Demolition of all existing buildings and works, and construction of a commercial building with 57 levels above ground (including plant) and a basement of 7 levels (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 North Sydney Environmental Plan 2013 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 Height of Buildings 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 cl. 4.3 Height of Buildings of the LEP and the objectives for development in the B3 Commercial Core 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*.

The Panel's decision was unanimous.

#### **REASONS FOR DECISION**

The Panel considered this proposal at meetings in February and June 2022.

At the February public meeting, the Panel resolved to briefly defer the application in order to ask Council and the Applicant to quickly meet, resolve and agree the outstanding issues listed below:

1. Podium height;
2. Awning heights and width;
3. Detailed design information on the glazed roof feature;

4. Final Design Review Panel (Council's Design Excellence Panel) comments on height and awnings of the amended proposal;
5. Reworked Clause 4.6 Written Request to succinctly describe relevant and specific environmental planning grounds;
6. Further definition of the proposed public art plan, including how the plan will contribute to creating place in public areas, especially in relation to the ground level; and
7. Agreed conditions of consent.

Between February and May, the Applicant, Independent Assessor and Council met several times to resolve the outstanding issues including the most recent community concerns raised after the deferral. Amended plans and additional information were then further assessed, a Supplementary Assessment Report was prepared and that Report was considered at the 1<sup>st</sup> June Panel meeting.

The Panel considered the following key issues:

#### **Podium height**

The amended plans lowered the podium's northern section's height by 4m, which is the equivalent of one podium level. The Panel concurs with the Assessor the height reduction is satisfactory, is consistent with Council's requirements and in particular achieves the relevant objectives of the North Sydney Development Control Plan 2013.

#### **Awning heights and width**

The revised awning design remains at a height similar to that previously proposed but has been deepened (the dimension measured over the footpath from the building's façade) and co-ordinated with the design of the neighbouring development at 100 Walker Street. Revised wind modelling indicates acceptable weather protection will be provided. The Panel concurs with the Assessor and Council that the awning design is commensurate with similarly sized, recent buildings in the North Sydney CBD and will complement the building's architecture.

#### **Roof feature**

The Panel requested further detail of the roof feature's design and this was provided in the latest design report. The Panel concurs with the Independent Assessor that the design detailed in the latest report, regarding the glass curtain around the building's topmost levels, is acceptable. However, the Panel did not accept that the roof feature satisfies the provisions of clause 5.6 of the North Sydney Local Environmental Plan 2013, as an Architectural Roof Feature.

#### **Council's Design Excellence Panel advice regarding height and awning design**

The Independent Assessor further addressed the height and awning issues raised by Council's Design Excellence Panel and the Panel accepts these issues have been satisfactorily addressed in the Supplementary Assessment Report.

#### **Reworked Clause 4.6 Written Request**

A reworked request to contravene the building height standard was submitted and assessed, as requested by the Panel. It was revised to better describe the relevant and specific environmental planning grounds.

The Panel did not agree with the Applicant's claim to satisfy the provisions of clause 5.6 of the North Sydney Local Environmental Plan 2013, as an environmental planning ground to justify the variation of the Height of Buildings development standard set out in clause 4.3. Notwithstanding, the Panel concluded that there are other environmental planning grounds sufficient to justify contravening the development standard, and the Panel concurs with the Independent Assessor that the revised clause 4.6 written request is satisfactory.

#### **Revised Public Art Plan**

A revised plan was submitted and assessed by Council and the Panel concurs with the Independent Assessor that the additional information satisfies the reason for deferral.

**Agreed conditions of consent**

Conditions of consent were amended and agreed by the Applicant and Council.

In summary, given the assessment presented in the Original and Supplementary Reports and noting the proposal has been appropriately assessed under relevant planning regulatory and policy requirements as required by section 4.15 (1) *Environmental Planning & Assessment Act, 1979*, the Panel concurs with the Independent Assessor that the revised proposal is acceptable and approval would be in the public interest.

**CONDITIONS**






The DA was approved subject to the conditions in attachment 6 to the Supplementary Assessment Report dated 18 May 2022.

**CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered 51 written submissions made during the public exhibition of the proposal and heard from members of the public during the February meeting.

Issues raised included: Non-compliance with height and tower setback controls; Inadequate building separation; Domination of the skyline and streetscape; Vehicular entry and exit on Walker Street; Loss of views; Overshadowing; and Privacy and general amenity. Since the February meeting, two further submissions were received and assessed.

The Panel considers that concerns raised in the submissions have been adequately addressed in the Assessment Reports and in the amended conditions.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Ken Robinson
 Kevin Alker	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-191 – North Sydney – DA19/2021
2	PROPOSED DEVELOPMENT	Demolition of all existing buildings and works, and construction of a commercial building with 57 levels above ground (including plant) and a basement of 7 levels.
3	STREET ADDRESS	110-122 Walker Street, North Sydney
4	APPLICANT/OWNER	Stockland Development Pty Ltd C/- Urbis Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Capital investment value (CIV) over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>North Sydney LEP 2013</li> <li>SEPP (Infrastructure) 2007</li> <li>SREP (Sydney Harbour Catchment) 2005</li> <li>SEPP 55 - Contaminated Lands</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>North Sydney Development Control Plan 2013</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</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>Amended Architectural Plans - Revision 6, Hassell, 01 04 22</li> <li>Supplementary Design Report, Hassell, 02 02 22</li> <li>North Sydney Design Excellence Panel Report, 09 11 21</li> <li>Clause 4.6 variation to development standard: height of buildings</li> <li>110-122 Walker Street North Sydney, Urbis, 23 February 2022</li> <li>Revised public art plan, UAP, 23 February 2022</li> <li>Recommended conditions of consent</li> <li>Through Site Link Coordinated Proposal, Hassell &amp; Bates Smart</li> <li>Council assessment report considered by Panel's on 16 02 22</li> <li>Correspondence concerning submission from Channel 9</li> <li>Written submissions during public exhibition: 51</li> <li>Council Assessment Officers – Jim Davies</li> </ul>

		<ul style="list-style-type: none"> <li>On behalf of the applicant – Gavin Boswarva, Caroline Choy, Phill Newton, Stephen White, Simon Gunasekara, Jack Kerstens, Liz Westgarth and Jeff Morgan</li> </ul>
8	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>1<sup>st</sup> Briefing: 14 April 2021</li> <li>2<sup>nd</sup> Briefing – 8 December 2021</li> <li>Public meeting - 16 February 2022</li> <li>E Determination – 1 June 2022 <ul style="list-style-type: none"> <li><u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Ken Robinson and Kevin Alker</li> <li><u>Council assessment staff</u>: Jim Davies and Stephen Beattie</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the Council Assessment Report