

DETERMINATION AND STATEMENT OF REASONS

SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	18 August 2021
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Graham Brown and Annelise Tuor
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 5 August 2021.

MATTER DETERMINED

PPSSNH-199 – Northern Beaches – MOD2021/0041, Lot 11 DP 577062, 23 Fisher Road, Dee Why, Modification of Development Consent DA2018/1574 granted for construction of a mixed development comprising three residential flat buildings, commercial use of a heritage listed building, car parking, infrastructure and landscaping (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.

Modification application

The Panel determined to refuse the modification application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

REASONS FOR THE DECISION

The Panel determined to refuse the modification application for the reasons set out below and in Council's Assessment Report.

The proposal seeks to modify the Development Consent DA2018/1574 to add an additional level atop each of the three approved buildings allowing 21 additional apartments and to increase the density on the site from 126 to 147 apartments.

As noted by Council, the proposal would allow excavation further into the site and would increase the overall height of each of the buildings. While the maximum height is less than originally approved, the proposed modifications seek to lift each of the three buildings above the height plane such that the non-compliance with the maximum building height standard under cl. 4.3 of the Warringah Local Environmental Plan 2011 (WLEP 2011) is more significant than the original consent.

The Panel did not accept that the modification application demonstrated that the proposal is substantially the same as the development for which approval was originally granted.

Additionally, the Panel formed the view that in relation to cl. 5.10 of the WLEP 2011 the modification proposal will adversely affect the heritage significance of the item and its setting. Sufficient information has not been provided to demonstrate whether the adverse impacts can be mitigated to achieve compliance with the requirement of this clause (i.e. an amended Heritage Impact Statement and amended Landscape Plan have not been provided to address the additional building height and landscape setting).



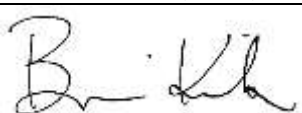


As requested by the Applicant, the Panel considered deferring the matter to allow the Applicant to consult with Council and provide amended plans and information that may address Council's concerns. However,

the Panel believes the necessary changes are uncertain and are likely to be too substantial to be completed in a short time frame. Accordingly, the Panel resolved to refuse the application.

The decision was unanimous.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered two written submissions made during public exhibition which raised concerns with building height, view loss and traffic impact. The Panel considers the concerns raised have been adequately addressed in the Assessment Report.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Graham Brown
 Annelise Tuor	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-199 – Northern Beaches – MOD2021/0041
2	PROPOSED DEVELOPMENT	Modification of Development Consent DA2018/1574 granted for construction of a mixed development comprising three residential flat buildings, commercial use of a heritage listed building, car parking, infrastructure and landscaping
3	STREET ADDRESS	Lot 11 DP 577062, 23 Fisher Road, Dee Why
4	APPLICANT/OWNER	Salvation Army (NSW) Property Trust Hamptons By Rose Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Modification 4.55(2)
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy (Building Sustainability Index: BASIX) State Environmental Planning Policy - Infrastructure 2011 State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65) Warringah Local Environmental Plan 2011 Draft environmental planning instruments: Nil <ul style="list-style-type: none"> Draft Remediation of Land State Environmental Planning Policy

		<ul style="list-style-type: none"> • Development control plans: <ul style="list-style-type: none"> ○ Warringah Development Control Plan 2011 • 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: August 2021 • Written submissions during public exhibition: 2
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection - site inspections have been curtailed due to COVID-19 precautions. Where relevant, Panel members undertook site inspections individually. • Briefing – 23 June 2021 • Panel members - Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Steve Kennedy and Annelise Tuor • Council assessment staff - Lashta Haidari and Steve Findlay • Final briefing to discuss council's recommendation: 18 August 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Graham Brown and Annelise Tuor ○ <u>Council assessment staff</u>: Lashta Haidari and Steve Findlay ○ <u>Applicant representative</u>: Bryan Rose, Stuart Rose, Nick Jackman, Kate Bartlett and Mark Broadley
9	COUNCIL RECOMMENDATION	Refusal
10	DRAFT CONDITIONS	N/A