

DATE OF DETERMINATION	6 April 2022
DATE OF PANEL DECISION	30 March 2022
PANEL MEMBERS	Julie Savet Ward (Acting Chair), Brian Kirk, Susan Budd, Ken Robinson and Kevin Alker
APOLOGIES	Peter Debnam
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 30 March 2022, opened at 2.33pm and closed at 3.02pm.

MATTER DETERMINED

PPSSNH-212 - North Sydney - DA97/2021, 63-83 Walker Street, North Sydney. Demolition of existing buildings and construction of 26 storey commercial building with part 4, part 5 levels of basement parking (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 Local 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 generally agreed with the recommendations and balance of considerations in the Council Assessment Report and considered that the proposed development had been appropriately assessed with respect to the objects and relevant sections of the Environmental Planning and Assessment Act 1979 as well as the objectives, development standards and prescriptive controls of various state environmental planning policies, the North Sydney Local Environmental Plan 2013 (NSLEP) and the North Sydney Development Control Plan 2013 (NSDCP).

The Panel considered the proposed development to be well located in close proximity to public transport and will make an important contribution to commercial floor space within the North Sydney Centre. The advice of Council's Design Review Panel has been largely adopted in the amended plans and the proposed development will make a positive contribution to the North Sydney skyline.

The Council's notifications of the proposal attracted two objections. The concerns raised have been appropriately considered in the assessment report and key issues addressed in the amended plans (in particular an 8.5 m reduction in height and the introduction of 3m side setbacks between the tower element and adjacent commercial buildings) and do not warrant refusal or further modification of the proposal.

The Applicant submitted a Clause 4.6 request with regard to the height of the proposal exceeding the current height control of RL 145 by 10m. The Panel considered the clause 4.6 written request to contravene the standard demonstrated that, notwithstanding the non-compliance with the maximum height development standard, the proposed exceedance:

- Is consistent with clauses 4.6 and 6.3(3) of NSLEP which allow for a contravention of the maximum height control under certain circumstances;
- Will have an appropriate impact, in terms of its scale, form and massing;
- Will not result in unacceptable overshadowing impacts;
- Will not materially increase anticipated gross floor area;
- Provides for a publicly accessible rooftop terrace and will not materially increase commercial floorspace;
- Will not impact any significant view lines and vistas from the public domain;
- Will make a positive contribution to the streetscape.

Under these circumstances, the Panel agreed that the written request is well founded, strict application of the control is both unreasonable and unnecessary and that there are sufficient environmental planning grounds to justify the contravention.

The Panel acknowledged that the flood mitigation issues had been resolved through the provision of an interim solution of mechanical flood gates, which both meets Council's requirements and the Applicant's needs until an overland flow path is provided in conjunction with the redevelopment of 107 Mount Street.

The Panel considered that the proposed significant reduction in the provision of bicycle spaces, when compared to the NSDCP, could be suitably addressed in the preparation of a Green Travel Plan. This has been addressed in a new condition of consent.

The Panel agreed that the proposed development provided an opportunity for public art and that this could be best addressed through a Public Art Plan, prepared for Council's approval. This has been addressed in a new condition of consent.

The Panel noted that the reduced height of the building in the amended plans meant that the building would not intrude into Sydney Airport's airspace but that approval would be required for any cranes during construction of the building. This has been addressed in an amendment to condition F11.

CONDITIONS

Development Application was approved subject to the conditions in Council's Assessment Report with following amendments to read as follows.

Green Travel Plan –

G25. A Green Travel Plan is to be provided to Council's satisfaction, prior to any Occupation Certificate.

The objective of the Green Travel Plan is to provide incentives to building users and occupants to shift away from single occupancy car use for the journey to and from their workplace, home or other locations.

The Plan, accepted by Council, is to be made available to the tenants of the building.

The Plan is to be reviewed, and amended as necessary, at intervals not greater than five (5) years. Any amendments to the Plan are also to be to Council's satisfaction.

The components of the Green Travel Plan should include:

- (a) empirical analysis of typical travel demand and mode share outcomes for walking, cycling, public transport and private vehicular use for similar developments (base case scenario);
- (b) a vision and objectives for the Travel Plan that are consistent with the community's vision for transport as detailed in the North Sydney Transport Strategy;
- (c) specific, measurable, ambitious and realistic targets, including time-frames for achieving them;
- (d) an action plan, with links to identified targets, that demonstrates how these actions will deliver the Travel Plan vision, reduce travel demand and/or increase walking, cycling, public transport and ride sharing for trips to and from the site. This could include:
 - (i) Identification and promotion of public transport options to access the site (for example, on a website and /or business cards);
 - (ii) Preparation of a Transport Access Guide (TAG) for the site.

Note: *Transport Access Guides (TAGs) provide information to staff and clients on how to reach places via public transport, walking or cycling.*

- (iii) Implementation of a car pool system for employees;
- (iv) Introduce staff car sharing scheme for fleet vehicles;
- (v) Use taxis or public transport for work related journeys;
- (vi) Provide priority parking for staff who car pool with more than 2 passengers;
- (vii) Encouragement of cycling and walking to the site through generous provision of bicycle parking, showers and lockers;
- (viii) Incentive schemes to encourage employees to commute using sustainable transport modes (such as the provisions of public transport vouchers/subsidised public transport tickets);
- (ix) Allocation of designated parking spaces for a car sharing scheme;
- (x) Prominent display of a large map of cycling routes (i.e. in the foyer of a residential, educational or business complex);
- (xi) Provide staff with cycling allowances, loans and insurance together with bicycle storage and showering and changing facilities; and

Note: *Transport Access Guides (TAGs) provide information to staff and clients on how to reach places via public transport, walking or cycling.*

Note: *The strategies listed above do not comprise an exhaustive list and Council will consider alternative strategies that reduce the reliance on the use of private motor vehicles.*

(Reason: To encourage the use of public transport, cycling and other efficient modes of transport)

Public Art

C45. Public art is to be provided within the development, by the Applicant, in accordance with Council's Public Art Policy.

The applicant shall submit a Public Art Plan for the proposed development, in relation to the provision of public art in the through-site link and/or the rooftop area, to the satisfaction of Council's Arts and Culture Officer. The applicant shall consult with Council's Arts and Culture Officer in the design and execution stages of the Public Art Plan.

The Artwork shall be installed in accordance with the approved Public Art Plan prior to the issue of any Occupation Certificate for the approved building.

(Reason: To provide public art)

Sydney Airport

F11. Separate approval must be sought under the Airports (Protection of Airspace) Regulations 1996 for any cranes required to construct the buildings. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations, therefore Sydney Airport advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct.

(Reason: Sydney Airport condition)

Easement for Through Site Link

G23. Prior to the issue of a final Occupation Certificate for the development, an Easement for Public Access, is to be created and registered on the Title of the subject land. The Easement is to be defined over the strip of land, of variable width, extending from the eastern alignment of Walker Street to the Western alignment of Little Walker Street generally over the paved walkway as shown on Drawing No. A 1203 dated 24 January 2022 prepared by Woods Bagot. The lower limit of the Easement is nominally the upper surface of the paved walkway and up to 3m in height above the nominated area. Access to the link will be provided to the public at all times the premises is open for business, and at a minimum from 8am to 6pm, Monday to Friday, excluding public holidays. The Easement is to be created appurtenant to Council in terms granting rights for public access.

(Reason: To formalise public access)

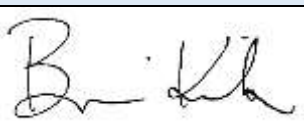
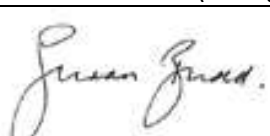
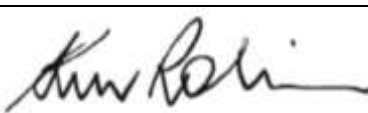
Access to Rooftop

G24. Prior to the issue of a final Occupation Certificate for the development, an Easement for Public Access to the rooftop is to be created and registered on the Title of the subject land. The Easement is to be defined over vertical circulation and trafficked areas of the rooftop terrace. The Easement is to be created appurtenant to Council in terms granting rights for public pedestrian access, including wheelchairs for the disabled. Access to the rooftop terrace will be provided to the public at all times the premises is open for business, and at a minimum from 8am to 6pm, Monday to Friday, excluding public holidays.

(Reason: Public benefit)

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered 73 written submissions, of which two were objections, made during the public exhibitions. Issues of concern included: height, loss of views and overshadowing. The Panel considered that concerns raised in the submissions had been adequately addressed in Council's Assessment Report, by Applicant and Council responses during the public meeting and in the changes to the conditions of consent.

PANEL MEMBERS	
 Julie Savet Ward (Acting Chair)	 Brian Kirk
	

Susan Budd	Ken Robinson
	
Kevin Alker	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-212 - North Sydney - DA97/2021
2	PROPOSED DEVELOPMENT	Demolition of existing buildings and construction of 26 storey commercial building with part 4, part 5 levels of basement parking
3	STREET ADDRESS	63-83 Walker Street, North Sydney
4	APPLICANT/OWNER	The Trustee for Thirdi Walker Street Unit Trust Somersby Springs Pty Ltd, Props of SP 70165/77239, Props of SP 35394, 2Hourtoner Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Capital investment value (CIV) over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - SEPP No 55 – Remediation of Land - Sydney Regional Environmental Plan (Sydney Harbour Catchment) – Deemed SEPP - Sydney North Local Environmental Plan 2013 - Draft environmental planning instruments: Nil - Development control plans: - Sydney North Development Control Plan 2013 - Planning agreements: Nil - Provisions of the <i>Environmental Planning and Assessment Regulation 2000</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	- Council Assessment Report: 16 March 2022 - Draft recommended conditions - Plans - Clause 4.6 request

		• Design statement • Written submissions during public exhibition: 73 • Verbal submissions at the public meeting: ○ Members of the community – Nil ○ Council Assessment Officer - George Youhanna ○ On behalf of the applicant – Luke Feltis
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Kick Off Briefing: 25 August 2021 • Final briefing to discuss council's recommendation: 30 March 2022 ○ <u>Panel members</u>: Julie Savet Ward (Acting Chair), Brian Kirk, Susan Budd, Ken Robinson and Kevin Alker ○ <u>Council assessment staff</u>: George Youhanna
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report