

DETERMINATION AND STATEMENT OF REASONS

SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	11 August 2021
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Martin Smith and Cheryl Szatow
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 28 July 2021.

MATTER DETERMINED

PPSSNH-214 – Ku-ring-gai – MOD0070/21, 950 Pacific Highway, Pymble, Modification to DA0307/17 proposing mesh security fencing and racking (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.

Development application

The majority of the Panel (Peter Debnam, Julie Savet Ward and Brian Kirk) determined to approve the modification application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

REASONS FOR THE DECISION

The Panel was satisfied that the modification application satisfied the requirement that the development to which the consent is being modified is substantially the same development for which approval was granted.

The application seeks to modify the perimeter of the nursery and bagged goods area in Warehouse Level 1 in the following ways:

- (i) Installation of finger-proof mesh security fencing behind the external glass louvre walls on the north eastern elevation (Pacific Highway) of the nursery and bagged goods area. The mesh is above the 2m high concrete wall in the bagged goods area and from the floor to the top of the glass louvre wall in the nursery; and
- (ii) Provision of racking behind the finger-proof mesh fencing to a maximum height of 4048mm above the finished floor level.

The proposed modifications would require amendments to Conditions 1, 27 and 120 of the development consent.

Council assessed the modifications and concluded the proposed installation of mesh fencing was acceptable, however recommended refusing the installation of the racking given the result and reduction in casual surveillance and quality of the built form outcome.

The alternative arguments in relation to the racking and translucent glass panels were discussed extensively between the Panel, Applicant and Council. The Panel noted Figure 4 on Page 6 of the Assessment Report incorrectly identified coloured glass louvres as transparent while the approval is for translucent coloured louvres.

The majority of the Panel concurred with the Applicant that the mesh and spaced racking arrangements would not significantly detract from the building's appearance.

Having regard to Section 4.55(2) of the Environmental Planning and Assessment Act 1979, the installation of finger-proof mesh fencing and provision of spaced racking behind the mesh is considered satisfactory by the majority of the Panel.

The Applicant accepted a further condition requiring racking to be spaced with gaps behind the concrete columns allowing good light transmission through those spaces. Accordingly, the majority of the Panel believe approval of the modification, as amended by the rack spacing, is in the public interest.

Martin Smith and Cheryl Szatow dissented from the majority decision in that they would have approved the modification application only to the extent recommended by Council. They concurred with Council that the proposed installation of racking along the Pacific Highway frontage, in addition to the mesh fencing and coloured glass louvre screen, would result in a semi solid wall and detract from the built form. While the racking itself may not be highly visible from the Pacific Highway, they believe the storage of goods on the racking would have a silhouette effect and preclude the play of light and architectural expression of the building. Accordingly, they would have refused that element of the modification.

CONDITIONS

The development application was approved by the majority of the Panel subject to the amended conditions 1, 27 and 120 proposed by the Applicant and detailed on pages 7 and 8 of the Council's Assessment Report with the following amendment to the fifth bullet point of proposed Condition 27 and the first sentence of Condition 120. Both sentences shall read:

"The nursery area shall have no pallet racking above the level of the glass louvre screen to the colonnade and the space behind and between each set of angled concrete columns will be kept free of racking to allow good light transmission through those spaces."

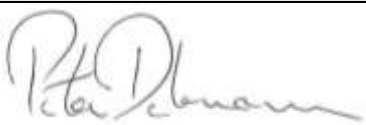


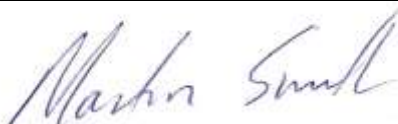

Condition 1 is amended as follows -

Except where amended by that work shown in colour on the S.4.55 plans endorsed with Council's stamp as listed below and except where amended by other conditions of this Development Consent:

Section 4.55 Plan no.	Drawn by	Dated
<i>Architectural Plans</i>		
<i>DA-A-103, Rev A (Warehouse Level 1)</i>	<i>Michael Carr Architect</i>	<i>01.03.21</i>
<i>DA-A-200, Rev B (Pacific Hwy and Ryde Rd Elevations)</i>	<i>Michael Carr Architect</i>	<i>01.03.21</i>
<i>SK-17A, Revision C (Sketch Sections)</i>	<i>Michael Carr Architect</i>	<i>01.03.21</i>

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes no written submissions were made during public exhibition.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Brian Kirk	 Martin Smith
 Cheryl Szatow	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-214 – Ku-ring-gai – MOD0070/21
2	PROPOSED DEVELOPMENT	Modification to DA0307/17 proposing mesh security fencing and racking
3	STREET ADDRESS	950 Pacific Highway, Pymble
4	APPLICANT/OWNER	Applicant - Bunnings Properties Pty Ltd Owner - Potpura 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 Ku-ring Gai Local Environmental Plan 2015 Draft environmental planning instruments: Nil <ul style="list-style-type: none"> Draft Remediation of Land State Environmental Planning Policy Development control plans: <ul style="list-style-type: none"> Ku-ring Gai Development Control Plan Ku-ring Gai Development Contributions Plan 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</i>

		<i>and Assessment Act 1979</i> or regulations <ul style="list-style-type: none"> • 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 July 2021 • Written submissions during public exhibition: nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Final briefing to discuss council's recommendation: 11 August 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Julie Savet Ward, Brian Kirk, Martin Smith and Cheryl Szatow ○ <u>Council assessment staff</u>: Bonnie Yue and Jonathan Goodwill ○ <u>Applicant representative</u>: Kendal Mackay
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report