

<b>DATE OF DETERMINATION</b>	26 August 2022
<b>DATE OF PANEL DECISION</b>	26 August 2022
<b>DATE OF PANEL MEETING</b>	24 August 2022
<b>PANEL MEMBERS</b>	Brian Kirk (Acting Chair), Julie Savet Ward, Graham Brown, Ken Robinson and Kevin Alker
<b>APOLOGIES</b>	Peter Debnam
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 11 August 2022.

#### **MATTER DETERMINED**

PPSSNH-294 – DA 32/22 - North Sydney, 100 Walker Street, North Sydney, Demolition of existing building and works, and construction of a commercial building of 48 levels above ground (including plant), with spaces for retail and business premises, a basement of 6 levels, and (half of) a pedestrian laneway shared with development of adjoining land.

#### **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:

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

the Panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl. 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.3 (development standard) of the LEP and the objectives for development in the B3 – *Commercial Core* zone; and
- 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 decision was unanimous.

#### **REASONS FOR THE DECISION**

The Panel determines to support the cl. 4.6 variation to the height of building development standard set out under cl. 4.3 (2) of the North Sydney LEP 2013 (NSLEP 2013) and approves the application for the reasons outlined in the Council Assessment Report.

The proposed development has been assessed with respect to relevant provisions of the *Environmental Planning and Assessment Act 1979* (the Act) and accompanying Regulation, the applicable provisions of relevant State Environmental Planning Policies, the NSLEP 2013, and the North Sydney Development Control Plan 2013 (NSDCP 2013). The North Sydney Local Infrastructure Contributions Plan 2020 and strategic documents related to the North Sydney CBD have also been considered.

The applicant submitted a written request in accordance with cl. 4.6 of the NSLEP 2013 to exceed the building height development standard of RL 227m by 12.0m, or 5.3%. Notwithstanding the deficiencies in the structure of the Applicant's written request and the inclusion of matters that the Panel considers not to be proper environmental planning grounds, the Panel is satisfied under cl. 4.6 (4)(a)(i) that adequate grounds particular to the circumstances of the proposed development sufficiently demonstrate why dispensation from compliance with the development standard is called for in this particular instance.

In accepting the Applicant's cl. 4.6 written request, it was unnecessary, for the purpose of granting development consent, for the Panel to form a definitive view about the Applicant's arguments on the proposed development's compliance with cl. 5.6 and cl. 6.3 of the NSLEP 2013; however, those arguments were considered in relation to the merits of the proposed development.

The Panel notes that the Council's Design Excellence Panel (DEP) considered the proposed development on two occasions; before the DA was lodged and then again after lodgement of the DA. The advice provided by the DEP and the responses provided by the Applicant have been carefully considered by the Panel.

The proposed development incorporates 74 car parking spaces, 13 motorcycle parking spaces, 397 bicycle spaces, and two loading bays within the six basement levels. A Green Travel Plan accompanies the DA. Council's assessment found the proposed on-site parking arrangements generally satisfactory and has recommended that the number of motorcycle and bicycle parking spaces be reinforced by a specific recommended condition of consent.

In considering the proposed development in its totality, including the exceedance in maximum building height, the Panel is satisfied that the proposed development will not cause:

- unreasonable additional overshadowing of land within and outside the North Sydney Centre,
- unreasonable adverse impacts on the built environment, in terms of its bulk, scale, form and massing, and
- damaging impacts on significant view lines and vistas from the public domain.

The Panel notes that the proposal is inconsistent with tower and podium setbacks of the NSDCP 2013; however, the Panel concurs with Council that these variations are considered acceptable.

The Panel also concurs with Council that the development stands to make a positive contribution to North Sydney's built environment, its economic and community life.

## **CONDITIONS**

The Development Application was approved subject to the conditions in the Council Assessment Report with the addition of conditions for:

- bicycle and motorcycle parking
- truck ingress and egress and
- incorporating the existing plaque on the Walker Street frontage, which records a historic landmark, in the Public Art Strategy.

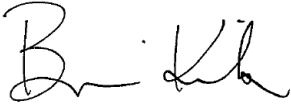



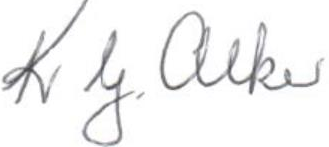
## **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered five written submissions received during the public exhibition of the proposal. Issues raised included:

- Non-compliance with the height control.
- Inadequate setbacks and building separation.
- Traffic generation and congestion.

- Loss of amenity, concerning loss of sunlight/overshadowing, views, and privacy

The Panel considers that concerns raised in the submissions have been adequately addressed in the Assessment Report.

PANEL MEMBERS	
 Brian Kirk (Acting Chair)	 Julie Savet Ward
 Graham Brown	 Ken Robinson
 Kevin Alker	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-294 – DA 32/22 - North Sydney
2	PROPOSED DEVELOPMENT	Demolition of existing building and works, and construction of a commercial building of 48 levels above ground (including plant), with spaces for retail and business premises, a basement of 6 levels, and (half of) a pedestrian laneway shared with development of adjoining land.
3	STREET ADDRESS	100 Walker Street, North Sydney
4	APPLICANT/OWNER	Applicant – Pro-invest Cam (St) Pty Ltd C/-Urbis Pty Ltd Owner - Pro-invest Cam (St) as Trustee for Pro-invest 100 Walker Office Trust
5	TYPE OF REGIONAL DEVELOPMENT	Capital investment value (CIV) over \$30 <b>million</b>
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 (Transport and Infrastructure) 2021</li> <li>SEPP (Biodiversity and Conservation) 2021</li> <li>SEPP (Resilience and Hazards) 2021</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>Conditions of Consent</li> <li>Report of the North Sydney Council Design Excellence Panel 08/03/22)</li> <li>Architectural Plans - Bates Smart (01/08/22)</li> <li>Response to North Sydney Council -, Bates Smart 3 June 2022</li> <li>Clause 4.6 request - Urbis (25/02/22)</li> <li>Detailed DA Design Report - Bates Smart (December 21)</li> <li>Landscape Design Report &amp; Plans - Aspect Studios (16/12/21)</li> <li>Civil Engineering Design Report - Enstruct (17/12/21)</li> <li>Traffic and Transport Assessment - ARUP (17/12/21)</li> <li>Construction and Demolition Management Plan - Tactical Group (16/12/21)</li> <li>Written submissions during public exhibition: 5</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Kick Briefing – 16 March 2022</li> <li>E Determination – 24 August 2022 <ul style="list-style-type: none"> <li><u>Panel members</u>: Brian Kirk (Acting Chair), Julie Savet Ward, Graham</li> </ul> </li> </ul>

		<p>Brown, Ken Robinson and Kevin Alker</p> <ul style="list-style-type: none"> <li>• <u>Council assessment staff</u>: Jim Davies</li> <li>• <u>Applicant</u>: Eliza Scobie, Nick Dillon, Guy Lake, Murray Donaldson, Jonathan Claridge and Mark Hotson</li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to the Council Assessment Report