

DATE OF DETERMINATION	22 July 2022
DATE OF PANEL DECISION	21 July 2022
DATE OF PANEL MEETING	20 July 2022
PANEL MEMBERS	Peter Debnam (Chair), Julie Savet Ward, Martin Smith, Kim Wheatley
APOLOGIES	Brian Kirk
DECLARATIONS OF INTEREST	None

Meeting held by teleconference on 20 July 2022, opened at 11:00am and closed at 11:15am.
Papers circulated electronically on 7 July 2022.

MATTER DETERMINED

PPSSNH-295 - MOD0219/21 – Ku Ring Gai, 376-384 Pacific Highway, Lindfield, 386-390 Pacific Highway, Lindfield, 1 Balfour Street, Lindfield, Coles Linfield - Modification to Land and Environment Court Approval 391613 of 2018 (DA0197/18) proposing changes to several conditions in order to break down the Stage 2 construction works into four phases. Internal and external alterations are also proposed to the approved mixed- use building. (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 listed at item 8 in Schedule 1.

Modification application

The Panel determined to approve the modification application pursuant to section 4.56 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

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

In 2019, by way of a Section 34 agreement, the Land and Environment Court granted development consent to DA0197/18 (Appeal No. 18/391613) for lot consolidation, demolition of the existing supermarket, partial demolition of a heritage item, relocation of Balfour Lane and construction of a 6 storey mixed use building, comprising shop top housing and including 70 apartments, supermarket, liquor store, coffee shop, office, car parking and associated work.

The Court approved two phases of the development, Stage 1-A and 01-B. Stage 1-A being the relocation of Balfour Lane from its current location to the western side of the site and Stage 01-B, being the demolition of the existing structures and construction of the mixed-use building.

In 2020, Sydney North Planning Panel granted consent to the modification (MOD0117/20) to Land & Environment Court Consent Proceedings 391613 of 2018 (DA0197/18) to amend Conditions 15, 16, 22, 23, 24, 46, 54, 69, 80, 102, 117, 118 and 124, to accommodate a staged construction process.

This modification seeks to facilitate staged construction and occupation of the development and also makes a number of internal and external alterations to the approved mixed-use building. The modification reduces the number of apartments from 70 to 59 with an acceptable modified mix of apartments.

The Panel concurs with Council that the site is suitable for the proposed application and the proposed modifications do not result in a development that is contrary to the reasons that informed the decision of the court.




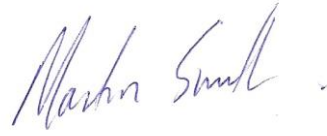
The Panel concurs with Council that the application has been properly assessed against relevant environmental planning instruments and approval would be in the public interest.

CONDITIONS

The Modification Application was approved subject to the conditions in the Assessment Report as amended by Council's Memo of 18th July which confirmed conditions had been agreed with the Applicant including amendments to enable staged occupation of the development (retail and residential) consistent with the recommended staged construction.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes issues of concern included pedestrian access, traffic and safety. The Panel considers that concerns raised by the community have been adequately addressed in Council's Assessment Report.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Julie Savet Ward
 Kim Wheatley	 Martin Smith

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-295 - Ku-ring-gai Council- MOD0219/21
2	PROPOSED DEVELOPMENT	Modification to Land and Environment Court Approval 391613 of 2018 (DA0197/18) proposing changes to conditions to break down the Stage 2 construction works into four phases and internal and external alterations to the approved mixed use building.
3	STREET ADDRESS	1 and 1A Balfour Street, Lindfield (formerly known as 376-384 Pacific Highway, 386-390 Pacific Highway and 1 Balfour Street, Lindfield)
4	APPLICANT/OWNER	Ppi Lindfield Developments Pty Ltd/ Coles Group Property Developments Ltd Vendor Number: 7017713
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.56 Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Biodiversity & Conservation) 2021 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy No.65 - Design Quality of Residential Flat Development State Environmental Planning Policy (Industry and Employment) 2021 Ku-ring-gai Local Environmental Plan 2015 (KLEP) Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Ku-ring-gai Development Control Plan (KDCP). 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	<ul style="list-style-type: none"> Council Assessment Report: 16 June 2022 Written submissions during public exhibition: 2 Total number of unique submissions received by way of objection: 2
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 30 March 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Julie Savet Ward (Acting Chair), Brian Kirk, Martin Smith, Kim Wheatley <u>Council assessment staff</u>: Amy Ayling, Selwyn Segall <u>Applicant</u>: Anna Limnios, Anthony Kazacos, Adam Marshall Final briefing to discuss council's recommendation: 20 July 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam Julie Savet Ward Martin Smith Kim Wheatley <u>Council assessment staff</u>: Amy Ayling, Selwyn Segall

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report