

DATE OF DETERMINATION	12 December 2023
DATE OF PANEL DECISION	11 December 2023
DATE OF PANEL MEETING	06 December 2023
PANEL MEMBERS	Peter Debnam (Chair), Brian Kirk, Kim Wheatley, Susan Budd
APOLOGIES	Nicole Gurran, Cedric Spencer
DECLARATIONS OF INTEREST	Martin Smith declared a perceived conflict of interest.

Papers circulated electronically on 28 November 2023.

MATTER DETERMINED

PPSSNH-376 - DA0049/23 – Ku-ring-gai – 62-66 Pacific Highway Roseville

Demolish existing structures (including Roseville RSL Club and retail tenancy) and construct a mixed-use building comprising new ground floor RSL Club, signage, shop-top housing of 37 residential dwellings, basement parking, associated works and subdivision (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 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 Ku-ring-gai Local Environmental Plan 2015 (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 clause 4.3 of the LEP and the objectives for development in the B2 Local Centre zone (being the applicable zoning of the land at the date of lodgement); 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 determined to approve the development application for the reasons set out below and in the Independent Assessor's comprehensive Report.

The Panel notes the proposal breaches the Clause 4.3 Height of Buildings development standard and accordingly the Applicant submitted a Clause 4.6 written request to vary the standard. The areas of the building which exceed the height standard are the lift overrun and roof structures of the stair and services room. The lift and stairs provide access to the communal open space and are located centrally on the roof

and do not contribute to the bulk or scale of the building as they are predominantly hidden from view from the surrounding area. The Panel concurs with the Independent Assessor that the proposed height variation does not result in any adverse impacts, allows a better planning outcome and that the Applicant has submitted appropriate justification for the variation.

The development application seeks consent to demolish existing structures (including Roseville RSL Club and retail tenancy) and construct a mixed-use building comprising new ground floor RSL Club, signage, shop-top housing comprising 37 residential dwellings (11 x one bedroom, 15 x 2 bedroom, 10 x three bedroom, 1 x four bedroom) basement parking for club and residential users, associated works and subdivision.

The proposed consolidation and subdivision of the site also seeks approval for the initial amalgamation of the site and boundary realignment, which will ultimately create three new lots. The subdivision is to be achieved in two stages: The first step is a land reconfiguration to accommodate the proposed future development and the second step is the Stratum subdivision that facilitates the creation of a strip of land limited in width and depth fronting Larkin Lane.

The proposal benefited from extensive consultation between the Applicant, Council and community throughout this year and the design was amended to improve layout, rooftop communal open space, frontages and external design, materials and finishes.

The Panel notes a separate draft Voluntary Planning Agreement (VPA) has also been submitted by the Applicant for the divestment and dedication of the 6.095-metres-wide strip of Council-owned land fronting Larkin Lane (total area 192.1sqm).

The Panel notes the previous development consent (DA0134/18) is to be surrendered as a condition of consent.

In summary, the Panel concurs the site is suitable for the proposed development. The DA has been properly assessed against relevant planning controls and approval is in the community interest.

CONDITIONS

During the meeting with Council and Applicant, several conditions were amended to clarify intent and to include noise attenuation measures.

Additionally, the majority of the Panel accepted the Applicant's request to amend Conditions relating to privacy screens to ensure a minimum 1.6m height, Brick Face Colour to retain the Applicant's proposed Hawthorn Black (differing from the majority, Panel Member Kim Wheatley noted her preference was to accept Council's colour preference). Council and the Panel also accepted the Applicant's request that Materiality of Windows, Doors and Balustrades should be aluminium as proposed.

The development application was approved subject to the deferred commencement conditions and amended operational conditions in Council's email of 07 December 2023 with the following further amendments:

Schedule A - Deferred Commencement Condition 2 - Voluntary Planning Agreement, first paragraph to read "A Voluntary Planning Agreement in accordance with the offer made to Council in the letter from Mills Oakley titled "Letter of offer: Development of land at 62-66 Pacific Highway, Roseville" dated 29 June 2023 is to be entered into with Council (at no cost to Council) and executed for:" and

Schedule B Condition 2 Amended architectural plans - deletion of the words "...be affixed to the soffit and ..." in line eleven of (b)

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered 4 written submissions made during the public exhibition of the proposal. Issues raised included: setbacks, heritage impacts, overshadowing, privacy, parking and

traffic, construction noise, bulk and scale. The Panel considers concerns raised in submissions have been adequately addressed in Council's Assessment Report.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Kim Wheatley
 Brian Kirk	 Susan Budd

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-376 - DA0049/23 – Ku-ring-gai
2	PROPOSED DEVELOPMENT	Demolish existing structures (including Roseville RSL Club and retail tenancy) and construct a mixed-use building comprising new ground floor RSL Club, signage, shop-top housing of 37 residential dwellings, basement parking, associated works and subdivision
3	STREET ADDRESS	62-66 Pacific Highway Roseville
4	APPLICANT/OWNER	Applicant: Adrian Giardina - ROSEVILLE RETURNED SERVICEMEN'S MEMORIAL CLUB LIMITED Owner: Roseville Returned Servicemen's Memorial Club Limited
5	TYPE OF REGIONAL DEVELOPMENT	CIV > \$5M - Council interest
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - SEPP No. 65 Design Quality of Residential Apartment Development - Apartment Design Guide - SEPP (Resilience and Hazards) 2021 - SEPP (Transport and Infrastructure) 2021 - SEPP (Sustainable Buildings) 2022 - SEPP (Biodiversity and Conservation) 2021 - Ku-ring-gai LEP 2015 - Ku-ring-gai Local Centres DCP - Ku-ring-gai Development Contributions Plan 2010 - Draft environmental planning instruments: Nil - Development control plans: - Ku-ring-gai Development Control Plan 2015 - Planning agreements: Nil - Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>:

		- Coastal zone management plan: Nil - Other relevant plans: 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 with draft conditions of consent. - Attachment A - Revised Architectural plans - Attachment B - Revised Landscape plans - Attachment C - Revised Engineering plans - Attachment D - Revised Clause 4.6 statement - Attachment E - SEPP 65 Design verification statement and report - Attachment F - Ecologically suitable design report - Attachment G - Traffic and parking report - Attachment H - Construction Traffic management plan - Attachment I - Plan of management (RSL) - Attachment J – Photomontages 01 - Attachment K – Photomontage 04 - Attachment L – Photomontage 03 - Attachment M – Photomontage 02 - Attachment N – Photomontage 01 - Attachment O – Photomontage 04 - Attachment P – Photomontage 03 - Attachment Q – Photomontage 02 - Clause 4.3 Height of Buildings - Written submissions during public exhibition: 4
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	1st Briefing - Wednesday, 14 June 2023 <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Nicole Gurran, Martin Smith, Kim Wheatley <u>Council assessment staff</u>: Brent Pearce, Andrew Martin, Selwyn Segall <u>Applicant</u>: Stephen Abolakian – (Developer Representative), Tina Christy – (Town Planner), Adrian 2nd Briefing - Wednesday, 30 August 2023 <u>Panel members</u>: Brian Kirk (Acting Chair), Nicole Gurran, Kim Wheatley <u>Council assessment staff</u>: Jonathan Goodwill, Brent Pearce, Andrew Martin, Selwyn Segall <u>Applicant</u>: Stephen Abolakian, Adrian Giardina, Simon Truong 06 December 2023 – Final meeting and electronic determination: <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Kim Wheatley, Susan Budd <u>Council assessment staff</u>: Michael Miocic, Shaun Garland, Ian Francis,

		Ross Guerrero, Brent Pearce, Selwyn Segall, Kerry Frair, Kieran Mcinerney, Andrew Martin, Gary Palmer, Joseph Piccoli, Kerry Frair ○ <u>Applicant</u>: Stephen Abolakian, Adrian Giardina, Simon Truong, Tina Christy, Hector Valderrama, Joseph Piccoli
9	COUNCIL RECOMMENDATION	Deferred Commencement Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report