

DATE OF DETERMINATION	27/10/2023
DATE OF PANEL DECISION	26/10/2023
DATE OF PANEL MEETING	25/10/2023
PANEL MEMBERS	Peter Debnam (Chair), Nicole Gurrán, Brian Kirk, Che Wall, Karla Castellanos
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 13 October 2023.

MATTER DETERMINED

PPSSNH-409 – North Sydney – DA92/2021/6 at 12-14 Waters Road, Neutral Bay – Section 4.55(2) application seeking modifications to Condition E47 (Construction Hours) in Development Consent D92/21 for a five storey shop top housing (mixed use) development to permit additional construction hours (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.

Application for modification of consent

The Panel determined to approve (in part) the modification application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve (in part) the application for the reasons outlined below and in Council’s Assessment Report.

The Panel notes construction of the approved mixed-use development is underway and the modification application has no effect on the nature of the development and simply seeks to extend construction work hours.

The Panel concurs with Council that the application has been properly assessed against the North Sydney LEP 2013 and North Sydney DCP 2013 and found to be generally satisfactory subject to further modifications to Condition E47 to permit construction hours to be extended to 6.00pm, Monday to Friday.

The applicant had also sought additional demolition/excavation and construction hours on Saturdays, however, the Panel concurs with Council that the extended Saturday work hours would cause further nuisance, particularly noise nuisance, for adjoining properties on Saturdays when many residents would be home.

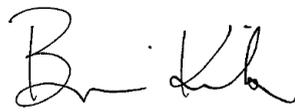
Having regard to the merits of the proposal, the Panel concurs with Council that part approval of the applicant’s request would be in the community interest to provide some improvement to the project completion time. The Panel agrees that Condition E47 should be amended to permit construction hours to be extended to 6.00pm, Monday to Friday.

CONDITIONS

The Modification Application was approved (in part) subject to the conditions in Council’s Assessment Report

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered 15 written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes issues of concern relate to construction noise and disruption. The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Nicole Gurran
 Brian Kirk	 Karla Castellanos
 Che Wall	

SCHEDULE 1

1	PANEL REF – LGA – DA NO.	PPSSNH-409 – North Sydney – DA92/2021/6
2	PROPOSED DEVELOPMENT	Section 4.55(2) application seeking modifications to Condition E47 (Construction Hours) in Development Consent D92/21 for a five storey shop top housing (mixed use) development to permit additional construction hours
3	STREET ADDRESS	12-14 Waters Road, Neutral Bay
4	APPLICANT/OWNER	Applicant: Daniel Barber Owner: The Trustee for CE Waters Development Trust
5	TYPE OF REGIONAL DEVELOPMENT	S4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ SEPP No.65 – Design Quality of Residential Apartment Development ○ SEPP (Building Sustainability Index: BASIX) 2004 ○ North Sydney Local Environmental Plan 2013 ○ North Sydney Development Control Plan 2013 ○ Apartment Design Guide • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ North Sydney Development Control Plan 2013 • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</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: 13/10/2023 • Written submissions during public exhibition: 15 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ David Saba ○ Felix Lai (Strata Plan) ○ Council assessment officer - Isobella Lucic ○ On behalf of the applicant – Phil Irving/ Daniel Barber • Total number of unique submissions received by way of objection: 15

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 13/09/2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Nicole Gurrán, Brian Kirk, Che Wall, Karla Castellanos ○ <u>Council assessment staff</u>: Robin Tse • Final briefing to discuss council's recommendation: 25/10/2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Nicole Gurrán, Brian Kirk, Che Wall, Karla Castellanos ○ <u>Council assessment staff</u>: Isobella Lucic ○ <u>Applicant representatives</u>: Daniel Barber, Phil Irving
9	COUNCIL RECOMMENDATION	Approval in part
10	DRAFT CONDITIONS	Attached to the Council Assessment Report