

<b>DATE OF DETERMINATION</b>	15 May 2025
<b>DATE OF PANEL DECISION</b>	14 May 2025
<b>DATE OF PANEL MEETING</b>	14 May 2025
<b>PANEL MEMBERS</b>	Peter Debnam (Chair), Brian Kirk, Che Wall
<b>APOLOGIES</b>	Karla Castellanos
<b>DECLARATIONS OF INTEREST</b>	Sue Francis

Public meeting held by teleconference on 14 May 2025, opened at 9.30am and closed at 10.35am.

#### **MATTER DETERMINED**

PPSSNH-427 – North Sydney – DA258/23 at 41-53 Grosvenor Street, Neutral Bay – Demolition of existing supermarket and Grosvenor Lane car park. Construction of a 4 storey mixed use and shop top housing development with 42 residential apartments, swimming pool, supermarket loading dock, liquor store and retail premises, 4 levels of basement parking including 189 retail parking spaces, 77 public parking spaces and 39 residential parking spaces, signage, associated civil and landscaping works and associated stratum 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 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), the Panel is satisfied that the applicant has demonstrated that:

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

The Applicant's request to vary the height standard was well documented in the revised 4.6 request and extensively discussed in the Independent Assessor's Report. The Panel concurs with the Independent Assessor that the additional height is appropriately designed and sited in that the maximum height non-compliance is centralised within the building so as not to be perceptible from street level. Further, given the non-compliance relates to roof elements and services rather than a full storey, the development will present as a height compliant four (4) storey development. Additionally, solar access to the future public plaza is optimised and the preferred siting of the supermarket at ground level also contributed to the design and height outcome. The Panel believes the development will be of an appropriate scale for the immediate locality and the height variation can be supported in the circumstances.

#### **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 determined to uphold the Clause 4.6 Variation Request to building height and approve the application for the reasons below and in the Independent Assessor's comprehensive Report.

The Panel noted that over recent years, the proposal benefited from extensive feedback from Council and the community and the amended design addressed a number of the concerns raised by Council and the public. The amended application was submitted to Council in November 2024 and represents a significant reduction in the size of the development including a reduced variation to the height of buildings.

The Panel concurs with the Independent Assessor that the amended proposal represents a suitable development of the site under current planning controls and provides a sympathetic response to the existing and desired future character and context of the area. The built form responds to the site context and respects the amenity of adjoining properties to provide an outcome that is an improvement upon the existing site use and will make a positive contribution to the Neutral Bay Town Centre.

The Panel believes the amended proposal was appropriately assessed against relevant planning controls, satisfies the objectives and requirements of Clause 4.3 of the NSLEP 2013 and the zone objectives of MU1 Mixed Use Zone and should be approved on its merits.

### **CONDITIONS**

The Development Application was approved subject to the conditions in the Independent Assessor's Report with the following amendments:

- Insert condition C64 as follows:

#### ***Services and Fire Hydrant Enclosure***

Prior to the issue of a Construction Certificate for works above ground slab level, the Certifying Authority is to be provided with plans demonstrating that all Services (Gas meter, water meter & fire hydrant and sprinkler booster valves and the like) are enclosed in a manner that complements the building and in accordance with the requirements of EP1.3 & EP1.4 of the BCA.

*(Reason: To ensure essential services are appropriately screened)*


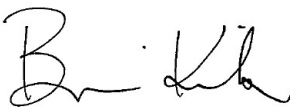

- Amend condition C34 to:
  - delete C34(e), and
  - add the following words to the end of condition C34(b) "food organics and garden organics (FOGO).

### **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Building height and setbacks.
- Tree removal.
- Access from basement parking.
- Views.
- Traffic and pedestrian issues.
- Loading arrangements.
- Removal of outdoor parking.
- Car Park Limited access points.
- Noise and dust during construction.
- Noise from loading and parking during operation.
- Pedestrian access during construction and operation.
- Redevelopment for the public plaza.

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and no new issues requiring assessment were raised during the public meeting. The Panel notes that in addressing these issues appropriate conditions have been imposed.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Brian Kirk
 Che Wall	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-427 – North Sydney – DA258/23
2	PROPOSED DEVELOPMENT	Demolition of existing supermarket and Grosvenor Lane car park. Construction of a 4 storey mixed use and shop top housing development with 42 residential apartments, swimming pool, supermarket loading dock, liquor store and retail premises, 4 levels of basement parking including 189 retail parking spaces, 77 public parking spaces and 39 residential parking spaces, signage, associated civil and landscaping works and associated stratum subdivision
3	STREET ADDRESS	41-53 Grosvenor Street, Neutral Bay
4	APPLICANT/OWNER	Debrah Barr – Gyde Coles Group Property Developments Ltd and North Sydney Council
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>Environmental Planning and Assessment Act 1979.</li> <li>Environmental Planning and Assessment Regulation 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy (Housing) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>State Environmental Planning Policy (Industry and Employment) 2021</li> <li>North Sydney Local Environmental Plan 2013</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>Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></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>Council Assessment Report: 6 April 2025</li> <li>Clause 4.3 Height of Buildings – April 2025</li> <li>Written submissions during public exhibition: 479 – first notification, 233 – second notification.</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>Ric O’Connell, Lesley Anne Sommerville, Meredith Trevallyn, Bernard Gallagher, Rob McKay, Peter Ellis, Cosmo Nati</li> <li>Council assessment officer – Jeff Mead</li> <li>On behalf of the applicant – Debrah Barr and Richard Hamilton</li> </ul> </li> </ul>

8	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Preliminary Briefing: 6 December 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam Chair), Brian Kirk, Nicole Gurran</li> <li>○ <u>Council assessment staff</u>: Michael Hornery, Sophie Perry (consultant), Emma Ziegenfusz (consultant)</li> <li>○ <u>Applicant</u>: Claire Ferguson, Adam Haddow, Howard Hathorn, James Vlismas, Tim Atkins, Richard Hamilton</li> <li>○ <u>Department staff</u>: Adam Iskander, Suzie Jattan</li> </ul> </li> <li>• Briefing: 26 June 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Nicole Gurran, Che Wall, Karla Castellanos</li> <li>○ <u>Council assessment staff</u>: Stephen Beattie, Michael Hornery, Jeff Mead (Consultant)</li> <li>○ <u>Applicant representatives</u>: Richard Hamilton, Howard Hathorn, Michelle Valderrama, Adam Haddow</li> <li>○ <u>Department staff</u>: George Dojas, Adam Iskander, Suzie Jattan</li> </ul> </li> <li>• Briefing: 31 July 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk</li> <li>○ <u>Council assessment staff</u>: Michael Hornery</li> <li>○ <u>Applicant representatives</u>: Richard Hamilton, Howard Hathorn, Tim Atkins</li> <li>○ <u>Department staff</u>: George Dojas, Adam Iskander</li> </ul> </li> <li>• Briefing: 28 August 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk</li> <li>○ <u>Council assessment staff</u>: Stephen Beattie, Michael Hornery</li> <li>○ <u>Applicant representatives</u>: Richard Hamilton, Howard Hathorn, Tim Atkins</li> <li>○ <u>Department staff</u>: George Dojas</li> </ul> </li> <li>• Briefing: 2 October 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk</li> <li>○ <u>Council assessment staff</u>: Michael Hornery</li> <li>○ <u>Applicant representatives</u>: Richard Hamilton, Howard Hathorn, Tim Atkins</li> <li>○ <u>Department staff</u>: Adam Iskander</li> </ul> </li> <li>• Final briefing to discuss council’s recommendation: 14 May 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Che Wall</li> <li>○ <u>Council assessment staff</u>: Stephen Beattie, Michael Hornery, Jeff Mead (Consultant), Emma Ziegenfusz (Consultant)</li> <li>○ <u>Applicant representatives</u>: Debrah Barr</li> <li>○ <u>Department staff</u>: Lillian Charlesworth, Jade Buckman</li> </ul> </li> <li>• Public Meeting: 14 May 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Che Wall</li> <li>○ <u>Council assessment staff</u>: Stephen Beattie, Michael Hornery, Jeff Mead (Consultant), Emma Ziegenfusz (Consultant)</li> <li>○ <u>Applicant representatives</u>: Debrah Barr, Richard Hamilton, Tim Atkins, Howard Hathorn, Felicity Rourke, Alan Stewart, James Vlismas</li> <li>○ <u>Department staff</u>: Lillian Charlesworth, Jade Buckman</li> </ul> </li> </ul>
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9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report.