

DATE OF DETERMINATION	05 July 2024
DATE OF PANEL DECISION	05 July 2024
DATE OF PANEL MEETING	03 July 2024
PANEL MEMBERS	Peter Debnam (Chair), Nicole Gurran, Brian Kirk, Cedric Spencer, Kim Wheatley
APOLOGIES	Nil
DECLARATIONS OF INTEREST	Nil

Papers circulated electronically on 20 June 2024.

MATTER DETERMINED

PPSSNH-462 - MOD0047/23 – Ku ring gai

1 and 1A Balfour Street, Lindfield (formerly known as 376-384 Pacific Highway, 386-390 Pacific Highway and 1 Balfour Street, Lindfield)

Section 4.56 Modification to Land and Environment Court Approval 391613 of 2018 (DA0197/18) proposing various internal and external changes to the approved mixed-use development, including changes to signage - Heritage Item

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.

Development application

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

The Panel's decision was unanimous.

REASONS FOR DECISION

The Panel determined to approve the Modification Application for the reasons below and in Council's comprehensive Assessment Report.

The approved development has a maximum height of 23.16m and contravened the maximum 20.5m height limit under Clause 4.3 of the Ku-ring-gai LEP. The proposed modifications also breach the height limit but there is no change to the approved maximum building height of 23.16m. The greatest variations are confined to service elements necessary for the proposed uses within the development and are generally set back from the edges of the building. These changes will not result in any additional view, solar access, visual amenity or privacy impacts nor materially add to the bulk or scale of the building. Consequently, the Panel concurs with Council that the proposed variation to the building height standard is acceptable on merit when considered against the objectives of the height standard.

In 2019, 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 including 70 apartments, supermarket, liquor store, coffee shop, office, car parking and associated work. Since that time, there have been several modifications to the project and the current modification involves various minor internal and external changes to the approved mixed-use development, including changes to signage.

Following assessment by Council and community feedback, the Applicant amended the application to provide additional information and amended plans.

The Panel concurs with Council that the proposed modifications have been properly assessed against relevant planning controls and do not result in a development that is contrary to the reasons provided by the Court in the granting of consent to the original development.

The Panel believes it is in the community interest the modification application be approved.



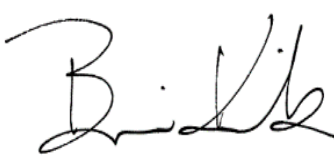


CONDITIONS

The proposed modifications involve changes to Condition 1, 110 and 114 as well as 53A and the addition of Conditions 129F and 154. Subsequently the Applicant also proposed further amendments to conditions 114 and 155. The Panel discussed these further amendments extensively with Council and the Applicant and it was agreed between the parties to further amend Condition 155. In the case of 114, the Council and the Panel did not accept the Applicant's proposed amendment to Condition 114.

The modification application was approved subject to the amended conditions detailed in Council's email of 3rd July 2024.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered one written submission made during public exhibition of the proposal. Issues raised included building height, privacy and visual impacts. The Panel considers concerns raised in the submission have been adequately addressed in Council's Assessment Report.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Kim Wheatley
 Brian Kirk	 Nicole Gurran
 Cedric Spencer	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-462 - MOD0047/23 – Ku ring gai
2	PROPOSED DEVELOPMENT	Section 4.56 Modification to Land and Environment Court Approval 391613 of 2018 (DA0197/18) proposing various internal and external changes to the approved mixed-use development, including changes to signage - Heritage

		Item
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	Knight Frank Town Planning / PPI Lindfield Developments Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	A Section 4.56 modification application to a development with a capital investment value of more than \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> Environmental Planning and Assessment Regulation 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Sustainable Buildings) 2022 State Environmental Planning Policy (Housing) 2021 State Environmental Planning Policy (Industry and Employment) 2021 Ku-ring-gai Local Environmental Plan 2015 (KLEP) Ku-ring-gai Development Control Plan (KDCP) Draft environmental planning instruments: Nil Development control plans: Ku-ring-gai Contributions Plan 2010 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	<ul style="list-style-type: none"> Council assessment report with draft conditions of consent. Attachment 1 - Location sketch Attachment 2 -Zoning Extract Attachment 3 - Architectural plans Attachment 4 - Landscape plans Attachment 5 - Design Statement dated 28 May 2024 Attachment 6 – Statement of Environmental Effects Attachment 7 – Comparison Plans (Proposed vs Original) Attachment 8 – Comparison Plans (Proposed vs Previous Substantive MOD) Attachment 9 – Land and Environment Court Approval 391613 of 2018

		<p>Architectural plans</p> <ul style="list-style-type: none"> • Written submissions during public exhibition: 1
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Preliminary Briefing – 01 May 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Nicole Gurran, ○ <u>Council assessment staff</u>: Luke Donovan Amy Ayling ○ <u>Applicant</u>: Knight Frank – Town Planning, Jason Raad, Ben Pomroy Anna Limnios, Karl Weaver and Nicholas Cavallo • 03 July 2024 - Final meeting and electronic determination: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Peter Debnam (Chair), Nicole Gurran, Brian Kirk, Cedric Spencer, Kim Wheatley ○ <u>Council assessment staff</u>: Luke Donovan, Amy Ayling, Shaun Garland, Michael Miocic ○ <u>Applicant</u>: Jason Raad, Anna Limnios, Karl Weaver, Nicholas Cavallo, Roy Vigdor, Alex Kobler
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report