

DETERMINATION AND STATEMENT OF REASONS
SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	18 November 2024
DATE OF PANEL DECISION	13 November 2024
DATE OF PANEL MEETING	13 November 2024
PANEL MEMBERS	Peter Debnam (Chair), Brian Kirk, Nicole Gurran and Cedric Spencer
APOLOGIES	Kim Wheatley
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 6 November 2024.

MATTER DETERMINED

PPSSNH-527 – Ku-ring-gai - eMOD0096/24 - 1 & 1A Balfour Street, Lindfield

Modification to Land and Environment Court Consent 391613 of 2018 (DA0197/18) for a mixed use development proposing to amend conditions 38 and 114 relating to the Green Star certification tool.

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 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 the application for the reasons below and outlined in Council's comprehensive Assessment Report.

The Applicant sought to modify the development consent for DA0197/18, specifically modifying the conditions of consent as they relate to the Green Star requirements changing the ratings tool from Green Star Buildings v1 to Green Star Interiors v1.3.

The Panel notes the advice of the Applicant and Council that advice was sought from the Green Building Council Australia regarding the ratings tool available to the project at this stage of development and that confirmed Green Stars Interior was appropriate for the proposed development and that the Coles tool originally proposed and approved as part of the original development is no longer able to be used.

The Panel also notes the Applicant's advice that *"the application as originally submitted never intended for the entire building to be subject to certification and hence the adoption of the Coles custom tool in the approved ESD and Green Star Strategy Report prepared by Connelley Simpson Cleary. Rather that the commercial and residential components have always been treated separately."*

The Panel notes Council referred the modification application to an external energy consultant who recommended the modification be accepted primarily because *"the change from the Green Star Buildings to Green Star Interiors v1.3 reflects the original intent of the development to apply a rating to the non-residential component of the development and which will result in similar sustainability outcomes for the development."*

The Panel notes Council's Assessment Report extensively documents the technical discussion of changing the ratings tool and the Panel is satisfied that Council and its consultant have properly assessed the Application in accordance with the necessary planning controls.



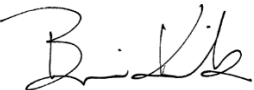

The Panel notes the modification will result in a development substantially the same as originally approved and the site remains suitable for the modified development. As a result, it would be in the public interest this modification be approved to resolve a technical misinterpretation.

CONDITIONS

The Development Application was approved subject to the conditions in Council's Assessment Report

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Nicole Gurran
 Brian Kirk	 Cedric Spenser

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-527 – Ku-ring-gai - eMOD0096/24
2	PROPOSED DEVELOPMENT	Modification to Land and Environment Court Consent 391613 of 2018 (DA0197/18) for a mixed use development proposing to amend conditions 38 and 114 relating to the Green Star certification tool
3	STREET ADDRESS	1 & 1A Balfour Street, Lindfield
4	APPLICANT/OWNER	Knight Frank Town Planning / Knight Frank Town Planning
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"> <i>State Environmental Planning Policy (Housing) 2021</i> <i>State Environmental Planning Policy (Sustainable Buildings) 2022</i> <i>Ku-ring-gai Local Environmental Plan 2015 (KLEP)</i> Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> <i>Ku-ring-gai Development Control Plan 2015 (KDCP)</i> 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: 17 October 2024 Written submissions during public exhibition: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Final briefing to discuss council's recommendation: 13 November 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Peter Debnam (Chair), Nicole Gurran, Brian Kirk and Cedric Spenser <u>Council assessment staff</u>: Luke Donovan, Shaun Garland, Michael Miocic <u>Applicant representatives</u>: Nicholas Cavallo
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report