

DETERMINATION AND STATEMENT OF REASONS

SYDNEY NORTH PLANNING PANEL

DATE OF DETERMINATION	21 July 2025
DATE OF PANEL DECISION	21 July 2025
PANEL MEMBERS	Peter Debnam (Chair), Brian Kirk, Sue Francis, Karla Castellanos, Che Wall
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 10 July 2025.

MATTER DETERMINED

PPSSNH-598 – North Sydney – DA 34/2025 at 8 West Street, North Sydney – Demolition and adaptive reuse of an existing 11-storey commercial building with ground floor retail, expanded podium and above ground residential apartments (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 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; and
- there are sufficient environmental planning grounds to justify contravening the development standard.

The existing building already exceeds the max height standard with a maximum building height of 41.86m, which is a variation of 28.86m from the development standard of 13m. The proposed building height is 43.45m representing a further height variation, principally due to the demolition of existing roof plant and equipment for a penthouse roof addition and the integration of the lift overrun. The Panel concurs with Council that the adaptive reuse of the building including the additional height in the proposed works will enable an improved aesthetic outcome for the rooftop and adaptive reuse of the building. Accordingly, the height variation can be accepted on its merits.

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 4:1 in favour. Against the decision was Karla Castellanos.

REASONS FOR THE DECISION

The Panel determined to uphold the Clause 4.6 variation to building height and approve the application for the reasons below and in Council's comprehensive Assessment Report.

The Panel notes the proposal has benefited from extensive consultation with Council, community and the Design Excellence Panel. The Panel concurs with Council that the adaptive reuse development for shop top housing is not only permissible in the MU1 Mixed Use zoned land but the development is responsive to the constraints and opportunities of the site. The proposal will have a positive environmental impact on the

natural and built environment increasing the provision of landscaping within the site, adding to the landscaped character of the streetscape and the design of the building retains the built form character of the tower.

The proposal has been assessed against the objectives and provisions of the NSLEP 2013 and the NSDCP 2013 and the proposal satisfies the key planning controls in the NSLEP apart from Clause 4.3 Height of Buildings development standard.

During the briefing, the Panel sought clarification as to whether the project satisfied ADG solar access provisions but it became apparent to the Panel that the solar access would not achieve the guidelines. However, the Panel believes that adaptive reuse of the building, including its fixed orientation and retention of some structural elements means it would not be possible to achieve full solar compliance. The Panel notes the eastern elevation would have solar access from 7am and dwellings would have good amenity in terms of views, cross ventilation and desirable layouts. The Panel believes there is sufficient environmental justification for non-compliance in the case of solar access.

Overall, the Panel believes the application has been properly assessed against relevant planning controls, will add to housing supply and the ground level will contribute to activation of the streetscape. Accordingly, the Panel believes the application warrants approval.

Karla Castellanos disagreed with the majority decision for the following reason:

- The proposal as lodged presented overlooking and privacy issues to the private open spaces of units on Level 1 from all levels above, specifically the balconies and habitable rooms of Level 2. Condition C43(iii) does not adequately mitigate these impacts.

CONDITIONS

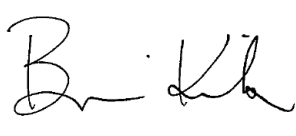
The draft conditions were discussed extensively with Council and the Applicant during the briefing. The Panel made recommendations for changes to some conditions to clarify and strengthen their intent and Council updated their recommended conditions (uploaded to the Portal 21 July 2025).

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes that issues of concern included:

- Traffic and vehicular access
- Public domain
- Visual and acoustic privacy
- Height
- Plant & equipment
- Loading zone
- Notification signs
- Property value

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report.

PANEL MEMBERS	
 Peter Debnam (Chair)	 Brian Kirk

 Sue Francis	 Karla Castellanos
 Che Wall	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSNH-598 – North Sydney – DA 34/2025
2	PROPOSED DEVELOPMENT	Demolition and adaptive reuse of an existing 11-storey commercial building with ground floor retail, expanded podium and above ground residential apartments.
3	STREET ADDRESS	8 West Street, North Sydney
4	APPLICANT/OWNER	The Trustee for Maville West Investment Unit Trust The Trustee for Maville West Investment Unit Trust
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy (Biodiversity and Conservation) 2021 - State Environmental Planning Policy (Sustainable Buildings) 2022 - State Environmental Planning Policy (Housing) 2021 - Chapter 4 Design of residential apartment development - State Environmental Planning Policy (Planning Systems) 2021 - State Environmental Planning Policy (Precincts— Eastern Harbour City) 2021 - State Environmental Planning Policy (Resilience and Hazards) 2021 - State Environmental Planning Policy (Transport and Infrastructure) 2021 - Chapter 2 Infrastructure - North Sydney Local Environmental Plan 2013 - Draft environmental planning instruments: Nil - Development control plans: - 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	• Council Assessment Report: 23 June 2025 • Council email: 16 July 2025 • Clause 4.3 Height of Buildings: 12 February 2025 • Written submissions during public exhibition: 7
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	• Preliminary Briefing: 16 April 2025 ○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Sue Francis ○ <u>Council assessment staff</u>: Thomas Holman, Stephen Beattie ○ <u>Applicant representatives</u>: Brendan Hoskins, Jason Fraser, MacKenzie Yates, Natasha Randall, Zie Liu ○ <u>Department staff</u>: Lillian Charlesworth, Jade Buckman • Final briefing to discuss council's recommendation: 16 July 2025 ○ <u>Panel members</u>: Peter Debnam (Chair), Brian Kirk, Sue Francis, Che Wall, Karla Castellanos ○ <u>Council assessment staff</u>: Thomas Holman, David Hoy, Stephen Beattie ○ <u>Applicant representatives</u>: Michael Rowe, Jason Fraser, Zie Liu, Nick Shen, Mackenzie Yates ○ <u>Department staff</u>: Lillian Charlesworth, Jade Buckman
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report and as amended by Council and uploaded to the Portal on 21 July 2025